

# Progressive Law and Environmental Refugee Protection: Reconstructing The Paradigm of Substantive Justice in Indonesia

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## Abstract.

*This research analyzes refugee protection in Indonesia from the perspective of progressive law, aiming to reconstruct a substantive justice paradigm in response to the limitations of legal-formalistic and positivistic approaches. The study is driven by the absence of comprehensive national legislation on refugee protection and Indonesia's non-ratification of the 1951 Refugee Convention and its 1967 Protocol, which have resulted in legal uncertainty and the treatment of refugees primarily as immigration issues rather than as rights-bearing individuals. This problem is further exacerbated by the emerging phenomenon of environmental refugees displaced by climate change, environmental degradation, and ecological disasters, who remain largely unrecognized within existing legal frameworks despite facing serious threats to their lives and dignity. Using a normative-juridical method with conceptual and philosophical analysis, this research examines progressive law theory, constitutional values, Pancasila, and fundamental principles of international human rights law, particularly the principle of non-refoulement. The findings demonstrate that reliance on formal legality alone is insufficient to ensure meaningful protection for both conventional and environmental refugees, while progressive law offers a humanistic framework that prioritizes human dignity and substantive justice beyond written norms. The study concludes that refugee protection in Indonesia requires a paradigm shift toward a progressive law approach grounded in constitutional and humanitarian values to effectively safeguard refugees' fundamental rights.*

**Keywords:** *Progressive Law; Refugee Protection and Substantive Justice.*

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## I. INTRODUCTION

The phenomenon of refugees constitutes a global humanitarian issue that has become increasingly complex in line with the escalation of armed conflicts, human rights violations, political instability, and transnational environmental disasters. Individuals who are forced to leave their countries of origin not only lose their homes but also forfeit state protection, legal identity, and guarantees of their fundamental human rights [1]. Under such circumstances, refugees occupy a highly vulnerable position physically, socially, and juridically particularly when they are present in the territory of a state that has yet to establish a comprehensive national legal framework for refugee protection. Environmental refugees resulting from environmental degradation and ecological destruction increasingly demand serious attention at both the global and national levels, including in Indonesia. Climate change, deforestation, land degradation, sea level rise, and environmental disasters have forced communities to leave their habitual environments, often without clear legal status or adequate protection under existing refugee and migration frameworks. Despite the growing scale of environmental displacement, international law has yet to formally recognize environmental refugees as a distinct legal category, leaving affected individuals in a vulnerable legal and humanitarian position. For Indonesia, as a country highly exposed to climate change impacts and environmental degradation, the phenomenon of environmental displacement is not only a global concern but also a pressing domestic issue that intersects with human rights, environmental justice, and social resilience.

Therefore, addressing environmental refugees requires integrated legal, policy, and ethical responses that emphasize shared global responsibility, preventive environmental governance, and a human-centered approach to protection grounded in justice and sustainability. Indonesia, although not a State Party to the 1951 Refugee Convention and the 1967 Protocol, in practice functions as a transit country and even a place of temporary residence for thousands of refugees and asylum seekers from various countries. The presence

of refugees within Indonesian territory creates a dilemma between state sovereignty, immigration control, and the demands of human rights protection [2]. To date, the regulation of refugees in Indonesia remains fragmented, relying primarily on administrative policies and cooperation with international organizations, without a specific law that comprehensively guarantees refugee protection. This condition gives rise to legal uncertainty and simultaneously opens space for violations of refugees' human rights. The legal approach that dominates in handling refugees in Indonesia tends to be legal-formalistic and positivistic. The status of refugees is often viewed merely as an issue of illegal immigration, resulting in refugees being placed in immigration detention centers or having their freedom of movement restricted without considering the humanitarian conditions underlying their arrival [3]. In this perspective, the absence of written legal norms is often used as a justification to limit or even deny protection for refugees. As a result, the law loses its fundamental function as a means of protecting human dignity. The foregoing conditions reveal a gap between law as a normative text and law as an instrument of substantive justice. It is within this context that the relevance of the progressive law approach becomes significant.

Progressive law views law not as a closed and static normative system, but as a living and dynamic institution that must consistently side with humanitarian values. The fundamental principle of progressive law that law is created for human beings, not the other way around demands moral courage to interpret and even transcend the formal boundaries of positive law in order to realize substantive justice. In the context of refugee protection, progressive law offers a fundamental critique of legalistic approaches that position refugees merely as objects of administrative regulation. Progressive law emphasizes that refugees must first and foremost be understood as human beings experiencing existential suffering, before being positioned as subjects of immigration law. Therefore, the absence of ratification of international instruments or gaps in national law cannot serve as a normative justification for neglecting the state's moral and constitutional obligations to protect the human rights of refugees. Furthermore, progressive law opens space for interpreting the foundational values of the state, such as Pancasila and the 1945 Constitution, as sources of legitimacy for refugee protection. The principle of "Just and Civilized Humanity" embodies recognition of human dignity without discrimination based on nationality. The Preamble of the 1945 Constitution, which affirms Indonesia's role in contributing to a world order based on freedom, lasting peace, and social justice, also provides a philosophical foundation for the protection of refugees. Accordingly, refugee protection can be understood not merely as an international obligation, but as a logical consequence of Indonesia's identity as a state governed by law that upholds humanitarian values.

In addition, the principle of non-refoulement as a fundamental principle in international refugee law has strong relevance in the progressive law approach. This principle prohibits a state from returning refugees to a territory where their life or freedom would be threatened [4]. From a progressive perspective, non-refoulement is not only understood as a treaty norm binding on state parties, but as a universal moral principle rooted in humanitarian values and the right to life. Therefore, the application of the non-refoulement principle should not depend solely on ratification status, but on the state's commitment to protecting human dignity. Nevertheless, in practice, the implementation of these humanitarian principles continues to face various structural and cultural obstacles, including the paradigm of law enforcement officials that remains oriented toward formal legal certainty, the limitations of national regulatory frameworks, and state concerns regarding social and economic burdens. These conditions give rise to fundamental questions regarding the extent to which law in Indonesia is capable of moving progressively in responding to refugee issues that are transboundary and multidimensional in nature. Based on the foregoing, this research becomes important to examine refugee protection from the perspective of progressive law as an effort to shift the protection paradigm from a legal-formalistic approach toward a humanistic approach grounded in substantive justice. This study is expected to contribute theoretically to the development of progressive law, while also providing practical contributions in formulating policy directions and law enforcement practices that are more just and humane for refugees in Indonesia.

## II. METHODS

This research employs a normative legal research method using a conceptual approach and a statutory approach. Normative legal research is selected because the focus of the study lies in analyzing legal norms, principles, doctrines, and legal thought relevant to refugee protection from the perspective of progressive law, rather than in collecting empirical field data, including in relation to the emerging phenomenon of environmental refugees. The conceptual approach is used to examine and construct the theoretical framework of progressive law as the main analytical lens in assessing refugee protection in Indonesia. In this context, key concepts such as law as a human-oriented institution, substantive justice, and the principle that “law is created for human beings” are critically analyzed to evaluate their relevance to refugee issues that are transboundary and multidimensional in nature, including displacement caused by climate change, environmental degradation, and ecological disasters.

This approach is also applied to examine the principle of non-refoulement as a universal moral principle that aligns with the values of progressive law and extends normative relevance to the protection of environmental refugees whose lives and dignity are at risk. The statutory approach is conducted by reviewing relevant national legal instruments related to refugees, including immigration regulations, administrative policies, environmental protection laws, and constitutional provisions under the 1945 Constitution of the Republic of Indonesia, particularly those concerning human rights, environmental rights, and humanitarian values. In addition, relevant international legal instruments on refugee law, human rights, and environmental protection are examined as normative comparative references. The legal materials used in this study consist of primary, secondary, and tertiary legal materials. Data collection is carried out through library research, while the analysis of legal materials is conducted qualitatively using deductive and interpretative reasoning methods. The findings of this study are expected to formulate a refugee protection model that is just and humane within the framework of progressive law in Indonesia, including adequate legal recognition and protection for environmental refugees.

## III. RESULT AND DISCUSSION

Global environmental degradation has become increasingly alarming as it intensifies the greenhouse effect and accelerates the frequency and severity of natural disasters worldwide. The excessive exploitation of natural resources, deforestation, and industrial emissions have significantly increased greenhouse gas concentrations in the atmosphere, leading to global warming and climate instability. As a result, extreme weather events such as floods, droughts, heatwaves, and storms are occurring with greater intensity and unpredictability. These environmental disruptions not only threaten ecosystems but also undermine human security, livelihoods, and public health across regions and national borders [5]. The cumulative impact of environmental damage has transformed environmental issues into global humanitarian concerns, as millions of people are forced to migrate due to uninhabitable conditions. Consequently, addressing environmental degradation and its greenhouse-related effects requires coordinated global action grounded in sustainability, environmental justice, and responsibility toward future generations. Global environmental degradation has given rise to transboundary human rights issues that extend beyond national borders. Environmental damage such as climate change, deforestation, and pollution directly threatens fundamental human rights, including the rights to life, health, water, food, and adequate housing. As environmental conditions deteriorate, affected populations are increasingly forced to cross borders in search of safety and livelihood, creating complex challenges for existing human rights and refugee protection frameworks. These cross-border impacts expose gaps in international law, particularly in addressing the protection of individuals displaced by environmental harm [6].

Moreover, environmental degradation disproportionately affects vulnerable communities, deepening global inequality and raising concerns of environmental injustice. Consequently, the global nature of environmental damage necessitates a human rights-based approach grounded in international cooperation and shared responsibility among states. Global refugee law has undergone significant development in response to evolving patterns of forced displacement and complex humanitarian crises. Initially centered on the 1951 Refugee Convention and its 1967 Protocol, the international refugee protection regime was

designed primarily to address persecution based on specific grounds within a post-war context. Over time, the scope of refugee law has expanded through regional instruments, judicial interpretations, and the integration of international human rights law, humanitarian law, and soft-law standards. Contemporary challenges such as protracted refugee situations, mass influxes, mixed migration flows, and climate-induced displacement have exposed limitations within the traditional refugee framework [7]. As a result, global refugee law increasingly emphasizes principles of human dignity, shared responsibility, and international cooperation beyond strict legal definitions. This evolving landscape reflects a shift toward a more holistic and protection-oriented approach to forced migration at the global level.

Despite the evolving development of global refugee law, environmental refugees have not yet received specific and adequate attention within the international legal framework. Existing refugee law instruments remain largely centered on persecution-based displacement, leaving individuals forced to migrate due to environmental degradation, climate change, and ecological disasters outside formal legal protection [8]. The absence of a clear legal definition and binding international norms regarding environmental refugees creates significant protection gaps and legal uncertainty. As environmental harm increasingly contributes to cross-border displacement, affected populations often fall under general migration or humanitarian regimes that lack rights-based guarantees. This normative gap reflects the slow adaptation of international law to contemporary environmental realities. Consequently, there is a growing need for legal recognition and progressive approaches that integrate environmental displacement into the broader framework of international human rights and refugee protection. Accordingly, a legal vacuum exists in addressing the protection of individuals displaced by environmental degradation and climate-related factors. This absence of specific legal recognition leaves environmental refugees outside the scope of existing international and national refugee protection frameworks. As a result, affected individuals often lack clear legal status and access to fundamental rights and protections. The legal vacuum also hinders states from developing coherent and consistent policies to respond to environmentally induced displacement. Consequently, this gap underscores the urgent need for progressive legal development to ensure adequate and humane protection for environmental refugees.

Although no comprehensive international legal framework specifically governs environmental refugees, several states have begun to develop domestic legal frameworks to address environmentally induced displacement. Among these countries, Switzerland and the Philippines have taken notable steps to recognize and respond to the impacts of environmental degradation and climate change on human mobility. Switzerland has incorporated humanitarian protection mechanisms and temporary admission schemes that allow protection for individuals displaced by environmental and humanitarian crises. The Philippines, as a country highly vulnerable to climate change, has adopted disaster risk reduction policies and human rights-based approaches that provide protection and assistance to populations displaced by environmental disasters. These two countries are therefore selected as comparative references because they represent different legal traditions and levels of vulnerability to environmental harm. Their experiences offer valuable insights into how national legal systems can adapt progressively to fill legal gaps in protecting environmental refugees. In essence, both countries rely primarily on the principle of non-refoulement as a moral foundation and as an expression of universal human rights. This principle serves as a fundamental safeguard against the forced return of individuals to situations where their lives or safety would be at risk due to environmental harm. Rather than establishing a specific legal status for environmental refugees, Switzerland and the Philippines use non-refoulement to justify humanitarian protection measures. In this context, non-refoulement functions not merely as a treaty-based obligation but as a universal human rights norm grounded in human dignity.

The application of this principle reflects a humanitarian commitment that transcends formal legal classifications of refugees. Consequently, non-refoulement becomes a key normative bridge for protecting environmentally displaced persons in the absence of explicit legal frameworks. Broadly speaking, Switzerland provides protection for environmental migrants through humanitarian and migration mechanisms grounded in international human rights principles rather than through a specific legal status for environmental refugees. Swiss law allows for temporary admission (F permit) and humanitarian protection for individuals who cannot be returned to their country of origin due to serious threats to life or safety,

including those arising from environmental disasters. This protection is closely linked to the principle of non-refoulement, which operates as a moral and legal safeguard against forced return. Switzerland also integrates environmental displacement concerns within its broader asylum, migration, and humanitarian assistance policies. Rather than redefining the refugee concept, Swiss practice emphasizes case-by-case humanitarian assessment and protection needs [9]. This approach reflects a pragmatic and human-rights-oriented response to environmental displacement in the absence of a specific international legal framework. In Switzerland, the primary institution responsible for handling refugees, including those affected by environmental displacement, is the State Secretariat for Migration (SEM). The SEM operates under the Federal Department of Justice and Police and is tasked with implementing asylum procedures, migration policies, and humanitarian protection mechanisms.

While Swiss law does not formally recognize environmental refugees as a distinct legal category, the SEM assesses protection needs through asylum and temporary admission procedures on a case-by-case basis. In situations where return would violate the principle of non-refoulement due to serious humanitarian or environmental risks, the SEM may grant temporary protection [10]. Through this institutional framework, Switzerland integrates environmental displacement concerns within its broader refugee and migration governance system grounded in human rights principles. The State Secretariat for Migration (SEM) coordinates closely with the United Nations High Commissioner for Refugees (UNHCR) in managing refugee protection in Switzerland, particularly in ensuring compliance with international protection standards. This coordination is reflected in information sharing, policy consultation, and procedural cooperation during asylum determination processes. UNHCR provides guidance, legal opinions, and supervisory support to ensure that asylum procedures implemented by SEM are consistent with international refugee law and human rights principles, including the principle of non-refoulement. In certain cases, UNHCR also plays an advisory role in assessing complex protection needs, especially those involving humanitarian or environmental factors. Through this collaborative framework, SEM retains sovereign authority over asylum decisions while benefiting from UNHCR's international mandate and expertise [11]. This coordination strengthens the legitimacy, consistency, and human-rights orientation of Switzerland's refugee protection system. Similarly, the Philippines provides protection for environmental refugees through disaster-responsive, humanitarian, and human rights-based legal and policy frameworks rather than through a specific refugee status.

As one of the countries most vulnerable to climate change and natural disasters, the Philippines integrates environmental displacement into its national disaster risk reduction and management system. Protection is primarily delivered through emergency response, internal displacement mechanisms, and humanitarian assistance grounded in the principle of non-refoulement and the right to life. The Philippine government also emphasizes community resilience, relocation programs, and social protection for populations displaced by environmental hazards [12]. This approach reflects a pragmatic and humanitarian model of protection for environmental refugees in the absence of explicit international legal recognition. In the Philippines, the primary institution responsible for handling displacement caused by environmental disasters is the National Disaster Risk Reduction and Management Council (NDRRMC). The NDRRMC coordinates national policies and responses related to disaster preparedness, emergency response, rehabilitation, and recovery for populations displaced by natural hazards and climate-related events. It works closely with government agencies such as the Department of Social Welfare and Development (DSWD), which provides humanitarian assistance and social protection to displaced persons. Although environmental refugees are not formally recognized as a distinct legal category, these institutions address displacement through disaster risk reduction and human rights-based frameworks [13]. Through this institutional arrangement, the Philippines manages environmental displacement as a humanitarian and development issue grounded in the protection of human life and dignity. In the Philippines, national institutions responsible for refugee and displacement issues coordinate closely with the United Nations High Commissioner for Refugees (UNHCR) to ensure protection in line with international standards.



This coordination is primarily carried out through agencies such as the Department of Justice–Refugees and Stateless Persons Protection Unit (DOJ-RSPPU), Refugee Services Philippines, Inc. (RSPI), and disaster-related bodies like the National Disaster Risk Reduction and Management Council (NDRRMC). UNHCR provides technical assistance, legal guidance, and capacity building to support refugee status determination, humanitarian assistance, and protection of displaced persons. In cases of displacement caused by environmental disasters, UNHCR works alongside national institutions to ensure that humanitarian responses incorporate human rights principles and protection safeguards [14]. This collaborative framework allows the Philippine government to retain sovereign authority while benefiting from UNHCR’s international mandate and expertise. Through such coordination, refugee and displacement management in the Philippines reflects a humanitarian, cooperative, and rights-based approach. Indonesia, however, has not yet ratified the 1951 Refugee Convention or its 1967 Protocol, which creates a significant gap in the formal legal protection for refugees within the country. As a result, the status of refugees and asylum seekers in Indonesia is largely governed by immigration regulations and administrative policies rather than comprehensive refugee law. This situation leaves refugees in a precarious position, often facing detention, restricted freedom of movement, and limited access to basic rights and services. Without ratification, Indonesia cannot fully invoke the international refugee framework to guarantee protections such as non-refoulement or the right to seek asylum. Consequently, the country relies heavily on cooperation with international organizations, particularly UNHCR, to manage refugee issues.

This legal gap highlights the need for Indonesia to consider adopting a national framework aligned with international standards to ensure the protection of refugees’ human rights. Nonetheless, this does not mean that Indonesia is exempt from moral and humanitarian responsibilities toward refugees. Even in the absence of formal ratification, the country remains obligated under universal human rights principles to protect the life, dignity, and basic needs of individuals seeking refuge. Moral imperatives call for providing humane treatment, access to essential services, and protection against forced return to situations of danger. Humanitarian responsibility also requires collaboration with international organizations, such as UNHCR, to ensure that refugees’ rights are respected. By recognizing these obligations, Indonesia can uphold its ethical and humanitarian commitments despite legal gaps. Ultimately, moral and human-centered duties serve as a foundation for progressive legal approaches that prioritize substantive justice for refugees. The principle of non-refoulement is recognized as a universal international norm and serves as both a moral and humanitarian appeal. It prohibits the forced return of individuals to countries or territories where their life, freedom, or safety would be at risk. Beyond its legal codification in treaties and customary international law, non-refoulement embodies a fundamental ethical commitment to human dignity and protection. This principle applies to all states, regardless of whether they have formally ratified the 1951 Refugee Convention or its 1967 Protocol. As a moral guideline, it underscores the responsibility of states to prevent harm and uphold the rights of vulnerable populations [15].

In essence, non-refoulement bridges legal obligations and humanitarian imperatives, reinforcing the universal duty to protect human life. The principle of non-refoulement is widely recognized as a *jus cogens* norm, meaning it holds the highest status in international law and is binding on all states. As a *jus cogens* principle, it cannot be derogated from, even by treaty or customary practice, reflecting its fundamental importance in protecting human life and dignity. This status underscores the universal obligation of states to refrain from returning individuals to situations where they face persecution, torture, or other serious harm. The recognition of non-refoulement as *jus cogens* elevates it beyond a mere legal obligation to a moral and humanitarian imperative. It provides a robust legal and ethical foundation for protecting refugees and asylum seekers, regardless of domestic legal frameworks. Ultimately, this principle reinforces the idea that safeguarding human rights is a non-negotiable duty under international law. In Indonesia, the handling of refugees is regulated administratively through Presidential Regulation of the Republic of Indonesia Number 125 of 2016 on the Handling of Refugees from Abroad, which serves as the main legal basis guiding national policy in managing asylum seekers and refugees. This regulation establishes key definitions, coordination mechanisms among agencies, and procedures for detecting and temporarily accommodating refugees in Indonesia. Although Indonesia has not ratified the 1951 Refugee Convention and its 1967 Protocol, the

existence of this Presidential Regulation demonstrates the country's commitment to fulfilling humanitarian obligations through cooperation with UNHCR and IOM. Additionally, the regulation outlines provisions regarding immigration oversight and temporary protection in accordance with human rights principles [16]. This framework serves as a practical foundation for the government to respond to refugee situations within its territory while promoting a humanitarian approach.

Even though it remains administrative in nature, the regulation is an important instrument for Indonesia in addressing the challenges of refugee protection. The Indonesian government issued Presidential Regulation Number 125 of 2016 to provide a legal and administrative framework for handling refugees from abroad, addressing the increasing influx of asylum seekers in the country. This regulation was prompted by the need to manage refugee situations systematically while ensuring protection in line with international standards. Indonesia, although not a party to the 1951 Refugee Convention and its 1967 Protocol, recognizes its humanitarian obligations as a member of the United Nations and the broader international community. The regulation enables Indonesia to cooperate effectively with UN agencies, particularly UNHCR, in managing refugee protection and assistance. It also reflects Indonesia's commitment to fulfilling moral and humanitarian responsibilities under international human rights principles. By establishing clear procedures and institutional coordination, the PP seeks to align national practices with global expectations and strengthen Indonesia's credibility in the international arena. Nonetheless, several problems persist in the implementation of Presidential Regulation Number 125 of 2016. First, the absence of a comprehensive national refugee law creates legal uncertainty and limits the protection of refugees' rights. Second, the regulation is largely administrative, leaving refugees vulnerable to detention, restricted movement, and limited access to essential services. Third, coordination between government agencies and international organizations, while necessary, is sometimes hampered by bureaucratic inefficiencies and resource constraints [17]. Finally, the lack of formal recognition of refugee status under national law challenges Indonesia's ability to fully uphold international humanitarian and human rights standards.

Despite the weaknesses inherent in Presidential Regulation Number 125 of 2016, there are additional considerations that influence Indonesia's approach to refugee protection. As a developing country, Indonesia faces limitations in resources, infrastructure, and institutional capacity to provide comprehensive protection to large numbers of refugees. These constraints make it challenging to implement full-scale programs that would meet international standards of refugee protection, including long-term solutions such as integration, resettlement, or access to formal employment. The regulation, therefore, represents a pragmatic approach that balances humanitarian obligations with practical capacity, ensuring that immediate protection and basic needs are met despite limited national resources [18]. Moreover, issues of sovereignty play a significant role in shaping Indonesia's refugee policies. By maintaining control over the registration, placement, and monitoring of refugees, the government can assert its authority while still cooperating with international organizations like UNHCR. This allows Indonesia to uphold its national interests and security concerns while fulfilling humanitarian responsibilities [19]. The approach demonstrates a careful calibration between moral and legal obligations and the realities of governance, reflecting the complex position of Indonesia as a developing nation navigating global expectations and domestic capabilities. Specifically regarding environmental refugees, Indonesia has not yet established a dedicated legal framework to address their protection. As a result, displaced individuals affected by natural disasters or climate change are treated under general immigration and disaster management regulations. This lack of specific legislation creates legal uncertainty and limits access to rights and services for environmental migrants.

Consequently, their status and needs often depend on the discretionary decisions of government agencies and cooperation with international organizations like UNHCR. The absence of clear national provisions highlights a significant gap in Indonesia's ability to respond effectively to cross-border and climate-induced displacement. Indonesia needs to adopt a progressive law approach in protecting refugees, particularly environmental refugees, to address gaps in its current legal framework. Such an approach emphasizes human dignity, moral responsibility, and substantive justice over purely formalistic or administrative regulations. By applying progressive law, the government can interpret existing constitutional values, international principles, and humanitarian norms to ensure meaningful protection [20]. This

perspective allows for flexible, human-centered solutions that respond to the multidimensional and transboundary nature of displacement. Ultimately, a progressive legal approach strengthens Indonesia's capacity to uphold both its moral obligations and practical responsibilities toward all refugees. Progressive law is a legal regime that prioritizes the protection of vulnerable groups, ensuring that the weak and marginalized receive attention and justice. In this context, refugees are considered part of the vulnerable population due to their precarious legal, social, and economic conditions. Progressive law emphasizes human dignity, moral responsibility, and substantive justice rather than merely formalistic adherence to written regulations. By applying this approach, the legal system can respond flexibly to complex and multidimensional issues, such as cross-border displacement.

It encourages interpretation of laws in a way that aligns with humanitarian principles and international norms, ensuring that the law serves human beings, not the other way around. Specifically, environmental refugees require particular attention under progressive law because they are displaced by climate change, natural disasters, or environmental degradation. Their situation is often compounded by the lack of specific legal recognition and protection at the national level. A progressive law perspective allows for the creation of adaptive solutions that prioritize human welfare and survival. It provides a moral and legal framework for governments to fulfill their duties even in the absence of formal treaties or comprehensive legislation. Ultimately, progressive law transforms the protection of environmental refugees from an administrative obligation into a substantive, human-centered responsibility. The principles of progressive law align closely with the values of Pancasila, particularly the first and second principles that emphasize belief in God and just and civilized humanity. By prioritizing human dignity and moral responsibility, progressive law reflects the Pancasila ideal of treating every individual with fairness and respect. Refugees, as vulnerable populations, are directly supported by this philosophy because their protection embodies the principles of justice and humanity. This approach ensures that laws are interpreted and applied in ways that uphold the ethical and moral foundations of the state. In essence, progressive law operationalizes Pancasila by making human welfare the core purpose of legal regulation. Environmental refugees, who face displacement due to climate change and natural disasters, also benefit from this alignment with Pancasila. The third and fourth principles, emphasizing the unity of Indonesia and democracy guided by wisdom, encourage inclusive and participatory solutions to refugee protection.

By recognizing environmental refugees as human beings with inherent dignity, progressive law reinforces Pancasila's commitment to social justice. The state is called to act not only within formal legal structures but also according to ethical and humanitarian imperatives. Thus, integrating progressive law with Pancasila ensures that refugee protection is both a legal duty and a moral obligation of the Indonesian nation. The strategy for implementing progressive law in refugee protection must consider Indonesia's capacity as a developing country. Policies should prioritize practical and achievable measures, focusing first on basic needs such as shelter, food, healthcare, and safety. Collaboration with international organizations like UNHCR and IOM is essential to supplement national resources and expertise. Capacity-building programs for government agencies and local authorities can strengthen the institutional framework for refugee management. By adopting a phased and pragmatic approach, Indonesia can gradually enhance protection mechanisms without overextending its limited resources. Implementation requires integrating progressive law principles into existing administrative and legal structures while remaining flexible to adapt to evolving situations. Environmental refugees, in particular, need specialized programs addressing climate-related displacement and long-term vulnerabilities. Monitoring, evaluation, and feedback systems should be established to ensure policies are effective and responsive to refugees' needs. Public awareness and community engagement can foster social acceptance and support for refugees within local populations. Ultimately, the combination of strategic planning, international cooperation, and progressive legal principles ensures that Indonesia can fulfill its humanitarian obligations realistically and sustainably.

Indonesia can learn valuable lessons from Switzerland and the Philippines in managing refugee protection effectively. Switzerland provides a structured legal framework for environmental and regular refugees, emphasizing the principle of non-refoulement and integration programs. Its institutions coordinate closely with international organizations to ensure both humanitarian protection and compliance with national



security standards. Switzerland's approach balances moral responsibility with practical governance, offering a model for systematic refugee management. By studying Swiss practices, Indonesia can explore ways to strengthen its legal and administrative mechanisms for refugee protection. Similarly, the Philippines offers insights into handling environmental displacement through disaster management agencies like NDRRMC and partnerships with UNHCR. The country integrates humanitarian principles into practical programs, providing temporary protection, emergency aid, and monitoring mechanisms for displaced populations. Coordination between national agencies and international organizations ensures responsive and context-specific solutions. Indonesia can adopt similar collaborative frameworks to address both environmental and conventional refugee needs. Learning from these countries enables Indonesia to design policies that are both human-centered and operationally feasible. Indonesia needs to develop a clear institutional framework to manage refugee protection effectively, especially for environmental and cross-border displacement. Central agencies should have defined roles and responsibilities to coordinate registration, placement, and access to basic services.

This framework must ensure accountability, transparency, and compliance with humanitarian and human rights standards. Capacity building and training for officials are essential to implement policies consistently and humanely. Establishing such institutions provides a stable foundation for progressive law-based protection for all refugees. Coordination with UNHCR is critical to supplement national capacity and align practices with international standards. Joint programs can focus on refugee status determination, legal assistance, and emergency response for displaced populations. Regular communication and shared data systems between Indonesian agencies and UNHCR enhance operational efficiency and monitoring. Collaborative planning ensures that humanitarian responses are timely, context-specific, and rights-based. By institutionalizing cooperation, Indonesia can fulfill its moral, legal, and practical obligations toward refugees effectively.

#### **IV. CONCLUSION**

Indonesia faces significant challenges in protecting refugees, particularly environmental refugees, due to the absence of a comprehensive national legal framework. Current regulations are largely administrative and rely heavily on cooperation with international organizations such as UNHCR. This situation creates legal uncertainty and limits access to fundamental rights for displaced populations. Progressive law offers a framework that prioritizes human dignity, moral responsibility, and substantive justice. By adopting this approach, Indonesia can move beyond formalistic regulations toward more humane and effective refugee protection. Lessons from Switzerland and the Philippines demonstrate that national legal frameworks, even without formal recognition of environmental refugees, can provide meaningful protection through humanitarian mechanisms and non-refoulement.

Coordination between domestic agencies and international organizations strengthens operational efficiency and ensures compliance with human rights standards. Indonesia can adapt these strategies by establishing clear institutional roles and capacity-building programs. Such measures allow the country to respond to cross-border and climate-induced displacement in a practical and rights-based manner. Progressive law enables the integration of these lessons with moral and ethical imperatives grounded in Pancasila. Finally, addressing refugee protection in Indonesia requires a balance between international obligations, moral responsibility, and national capacity as a developing country. Environmental refugees present additional challenges that demand flexible, adaptive, and human-centered policies. A progressive law approach encourages interpretation of existing legal and constitutional principles to meet these needs effectively. Collaboration with UNHCR and other international actors remains essential to supplement national capabilities. Ultimately, embracing progressive law can transform refugee protection from an administrative duty into a substantive commitment to justice, dignity, and humanitarian responsibility.

## REFERENCES

- [1] Ali, L. Briskman, and L. Fiske, "Asylum seekers and refugees in Indonesia: Problems and potentials," *Cosmopolitan Civil Societies: An Interdisciplinary Journal*, vol. 8, no. 2, pp. 22–43, 2016, doi: 10.3316/informit.903977044351509.
- [2] Y. Olivia, Y. E. Nizmi, A. Jamaan, I. Iskandar, M. Saeri, and H. S. Deanty, "Considering Local Integration for Refugees in Indonesia," *Jurnal Hubungan Internasional*, vol. 9, no. 2, 2024, doi: 10.18196/jhi.v9i2.10113.
- [3] N. D. F. Tan, "The Status of Asylum Seekers and Refugees in Indonesia," *International Journal of Refugee Law*, vol. 28, no. 3, pp. 365–383, Oct. 2016, doi: 10.1093/ijrl/eev045.
- [4] K. D. P. Dermawan and D. Sadiawati, "Implementation of Non-Refoulement Principles in Legislation as Protection of Refugees in Indonesia," *Jurnal Mahkamah: Kajian Ilmu Hukum dan Hukum Islam*, vol. 8, no. 2, pp. 137–150, 2023, doi: 10.25217/jm.v8i2.3968.
- [5] N. Moumou and F. Bennamane, "Environmental Displacement in International Law: Beyond the Refugee Convention, Within the Human Rights Framework," *International Journal of Innovation, Technology and Social Sciences*, vol. 2, no. 46, 2025, doi: 10.31435/ijitss.2(46).3326.
- [6] G. Ginting, S. Ginanjar, A. Andi, L. Lindawati, and R. R. I. Sumilat, "Climate-Induced Displacement and International Human Rights Law: Addressing Legal Gaps in Protecting Environmental Migrants," *Jurnal Smart Hukum (JSH)*, vol. 4, no. 2, pp. 120–133, 2025, doi: 10.55299/jsh.v4i2.1595.
- [7] P. Ballinger, "Historical Foundations and Limitations of International Refugee Law," *Annual Review of Law and Social Science*, vol. 21, pp. 285–305, Oct. 2025, doi: 10.1146/annurev-lawsocsci-041922-051041.
- [8] H. Chen, "Research on the Definition and Protection of 'Environmental Refugees' from the Perspective of International Refugee Law," *Frontiers in Humanities and Social Sciences*, vol. 5, no. 4, pp. 62–76, 2025, doi: 10.54691/mz9v7f02.
- [9] W. Kälin, "Conceptualising Climate-Induced Displacement," *International Journal of Refugee Law*, vol. 22, no. 1, pp. 81–103, 2010, doi: 10.1093/ijrl/eeq003.
- [10] L. Affolter, "Asylum Decision-Making in Switzerland: Processes, Trends and Institutional Development," in *Asylum Matters: Perspectives on Refugee Law and Policy in Switzerland and Beyond*, Cham: Palgrave Macmillan, 2020, pp. 47–74.
- [11] Hett, "Towards mutual trust and understanding: establishing effective communication between Ukrainian refugees and Swiss government institutions," *Frontiers in Human Dynamics*, vol. 6, art. 1445749, Oct. 2024, doi: 10.3389/fhumd.2024.1445749.
- [12] L. Robles, "Reflecting on climate-induced migration as a human security issue: An internally-displaced-person-centered approach to understanding displacement," *Journal of Human Security Studies*, vol. 10, no. 1, pp. 1–20, 2021, doi: 10.34517/jahss.10.1\_1.
- [13] S. M. Candelaria, "The Practice of Refugee Law in the Philippines," *Philippine Law Journal*, vol. 70, no. 187, pp. 187–???, 1995.
- [14] R. J. Casis, "Refugee Protection and Border Control in the Philippines," in *Asian Yearbook of International Law*, vol. 28, pp. 104–127, 2022, doi: 10.1163/9789004718128\_008.
- [15] J. Allain, "The jus cogens nature of non-refoulement," *International Journal of Refugee Law*, vol. 13, no. 4, pp. 533–558, Oct. 2001, doi: 10.1093/ijrl/13.4.533.
- [16] Amiludin and S. Sinta, "Implementasi Peraturan Presiden Nomor 125 Tahun 2016 Tentang Penanganan Pengungsi dari Luar Negeri Terhadap Hubungan Diplomatik Indonesia dengan Negara Lain," *Amnesti: Jurnal Hukum*, vol. 6, no. 2, pp. 246–258, 2024, doi: 10.37729/amnesti.v6i2.4317.
- [17] L. Shahnaz and Z. A. Muhja, "Beyond Administrative Containment: A Decade Of Normative Gaps In Indonesia's Refugee Governance Under President Regulation No. 125/2016," *Borneo Law Review*, 2025, doi: 10.35334/x5rx5471.
- [18] R. Salsabila and F. M. Riyadi, "Juridical Analysis of Protection of the Rights of Indonesian Citizens & Ethnic Rohingya Refugees in Indonesia: A Meta-Analysis Based on Humanitarian and Security Aspects," *Open Access Indonesia Journal of Social Sciences*, vol. 7, no. 4, pp. 1630–1638, 2024, doi: 10.37275/oaijss.v7i4.257.
- [19] Meganingratna, A. Arsyad, and A. S. Culla, "Humanitarian Diplomacy Versus Domestic Politics: The Dilemma of Refugee Management in Indonesia," *Jurnal Dinamika Global: Jurnal Ilmu Hubungan Internasional*, vol. 10, no. 1, 2025, doi: 10.36859/jdg.v10i1.3435.
- [20] M. Zulfa Aulia, B. Fajar Hantoro, and W. Sanjaya, "The Use of Progressive Law Phrase in Constitutional Court Decisions: Context, Meaning, and Implication," *Jurnal Konstitusi*, vol. 20, no. 3, pp. 423–450, 2023, doi: 10.31078/jk2034.