

Research Article

# Legal Protection for Indonesian Citizens as Victims of Manipulative Marriages by Refugees: A Normative Analysis of State Responsibility

Moch Rafi Khadafi<sup>1\*</sup>, Dudik Djaja Sidarta<sup>2</sup>, Renda Anggraeni<sup>3</sup>

<sup>1-3</sup> Faculty of Law, Dr. Soetomo University, Indonesia,

\* Corresponding Author: e-mail: [muhammad.rafi.kha@gmail.com](mailto:muhammad.rafi.kha@gmail.com)

**Abstract:** The phenomenon of marriages between Indonesian citizens (WNI) and refugees represents a complex legal challenge due to the absence of specific regulations governing such relationships. This study examines the legal protection for Indonesian citizens who become victims of manipulative marriages by refugees, employing a normative juridical approach with statutory and conceptual methods. The research analyses primary legal materials, including the 1945 Constitution, Law Number 1 of 1974 concerning Marriage, Law Number 39 of 1999 concerning Human Rights, and Presidential Regulation Number 125 of 2016 concerning the Handling of Refugees from Abroad. The findings reveal that Indonesian national law does not specifically regulate marriages between Indonesian citizens and refugees or asylum seekers, creating a significant legal vacuum (*rechtsvacuum*) that renders such relationships vulnerable to abuse, violence, and legal uncertainty. Furthermore, the state's responsibility in protecting Indonesian citizen victims of manipulative marriages by refugees has not been optimally implemented, despite constitutional and juridical foundations requiring protection from all forms of violence, discrimination, and exploitation. The study recommends the formulation of specific regulations addressing marriages between Indonesian citizens and refugees, strengthening the role of victim protection institutions, and establishing inter-agency coordination systems, including international organisations such as UNHCR and IOM, to prevent abuse and strengthen law enforcement mechanisms.

**Keywords:** Indonesian Citizens; Legal Protection; Manipulative Marriage; Refugees; State Responsibility

## 1. Introduction

In the global and national context, manipulative marriage practices encompassing forced marriages, arranged marriages without full consent, and marriages under social pressure or due to refugee status remain serious issues demanding legal protection for Indonesian citizens who become victims, particularly when their partners hold refugee or stateless status. The imposition of marriage violates the principles of human rights recognised in Law Number 39 of 1999 and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), wherein women possess the right to freely and fully choose their partners.

The status of refugees in Indonesia differs fundamentally from ordinary foreign nationals. Refugees do not possess passports from their country of origin, do not have recognised citizenship status, and are only granted temporary residence permits on humanitarian grounds by Indonesian immigration authorities. They are not under the protection of any embassy, as they generally have fled their home country due to persecution or conflict. Consequently, refugees cannot fulfil the administrative requirements to marry Indonesian citizens according to national legal provisions.

When marriages between Indonesian citizens and refugees occur, various fundamental questions emerge: Can the state record and recognise such marriages legally? Do refugees have the legal capacity to marry? What protection exists for Indonesian citizens in cases of marriage abuse? The absence of regulations specifically governing the procedures, requirements, and legal consequences of marriages between Indonesian citizens and refugees

Received: July 28, 2025;

Revised: September 22, 2025;

Accepted: November 17, 2025;

Published: January 12, 2026;

Curr. Ver.: January 12, 2026



Copyright: © 2025 by the authors.

Submitted for possible open

access publication under the

terms and conditions of the

Creative Commons Attribution

(CC BY SA) license

(<https://creativecommons.org/licenses/by-sa/4.0/>)

or asylum seekers creates a legal vacuum that disadvantages Indonesian citizens who lack legal protection and access to justice when disputes or domestic violence occur.

Studies from Universitas Indonesia demonstrate that although some marriages between Indonesian citizens and Rohingya refugees are reported to refugee handling agencies, many are not regulated by either immigration law or national marriage law, causing problems with marriage legitimacy, documentation, and civil rights. This background underscores the urgency of research examining how the national legal system can strengthen the protection and restoration of rights for Indonesian citizens who become victims of manipulative marriages by refugees.

Based on this background, this research addresses two problem formulations: (1) Does Indonesian national law currently specifically regulate marriages between Indonesian citizens and refugees or asylum seekers? (2) What is the state's responsibility in protecting Indonesian citizens who are victims of marriage abuse by refugees from the perspective of national law?

## **2. Literature Review**

### **Theory of Legal Protection**

Legal protection encompasses all state efforts through its power and legal institutions to provide a sense of security to citizens, both preventively and repressively. Legal protection constitutes the provision of guarantees of rights and justice to the community as part of the supremacy of law. This protection can be provided in the form of protection of civil rights, criminal protection against unlawful acts, and administrative protection against arbitrary treatment by authorities. In the context of victims of manipulative marriages, legal protection includes access to justice, protection from exploitation, and restoration of civil and family rights. Article 28D paragraph (1) of the 1945 Constitution states that every person has the right to recognition, guarantees, protection, and legal certainty that is fair.

### **Marriage According to National Law**

Marriage, according to Indonesian law, is regulated in Law Number 1 of 1974 concerning Marriage, which was updated by Law Number 16 of 2019. Article 1 affirms that marriage is a physical and spiritual bond between a man and a woman as husband and wife with the purpose of forming a happy and lasting family based on the One Godhead. The legality of a marriage is determined not only based on religion but also on civil registration as an administrative state requirement. Without registration, many legal rights cannot be exercised, including inheritance rights, children's citizenship, and legal protection in divorce cases.

### **Legal Status of Refugees**

According to the 1951 Convention on the Status of Refugees, a refugee is a person who is outside their country and cannot return due to fear of persecution. Indonesia has not ratified this Convention, but provides humanitarian protection through Presidential Regulation Number 125 of 2016. Nevertheless, refugees do not have legal status as ordinary foreign nationals. This creates difficulties in fulfilling civil rights, including in marriages with Indonesian citizens. When marital relations occur between Indonesian citizens and refugees, the legal position of refugees becomes unclear because they do not possess valid immigration documents.

### **Manipulative Marriage by Refugees**

Manipulative marriage constitutes a marriage conducted without a sincere intention to obtain one-sided benefits from the partner, for example, to obtain legal residence status or certain facilities. Such cases are often experienced by Indonesian citizens, especially women, who marry refugees without knowing their hidden motives. Many of them do not have marriage certificates because the marriage was conducted religiously (*siri*) or unregistered due to unfulfilled administrative requirements from refugee partners. Consequently, Indonesian citizens who become victims lack legal protection, and children from such marriages often become stateless.

### **State Responsibility Toward Victims**

The state has the obligation to provide legal protection to every citizen, as regulated in Law Number 39 of 1999 concerning Human Rights. In cases where Indonesian citizens become victims of manipulative marriages by refugees, the state must be present through legal instruments and policies that protect victims from exploitation and provide access to legal recovery, such as marriage annulment, child protection, and legal assistance. Furthermore, Law Number 12 of 2022 concerning Sexual Violence Crimes includes forced marriage as a form of sexual violence that can be criminalised, demonstrating legal recognition of manipulative marriage practices as a violation of human dignity.

### 3. Research Methods

This research constitutes normative juridical legal research, conducted by analysing library sources or secondary data. The primary focus of this research is to study the legal norms contained in legislation related to legal protection for Indonesian citizens who are victims of manipulative marriages by refugees, as well as to analyse state responsibility in the context of national law.

This research employs a statutory approach (statute approach) and a conceptual approach. The statutory approach is conducted by examining various legal regulations governing marriage, human rights, and refugee handling. The conceptual approach is used to understand concepts and theories regarding legal protection, substantive justice, and state responsibility.

Primary legal materials in this research include the 1945 Constitution, Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019, Law Number 39 of 1999 concerning Human Rights, Law Number 23 of 2006 concerning Population Administration as amended by Law Number 24 of 2013, Presidential Regulation Number 125 of 2016 concerning the Handling of Refugees from Abroad, and Law Number 12 of 2022 concerning Sexual Violence Crimes. Secondary legal materials consist of books, scientific journals, legal articles, and expert opinions relevant to the discussion. The collected data is analysed using a descriptive-analytical approach to obtain a clear understanding of how legal protection for Indonesian citizen victims is accommodated in existing regulations.

### 4. Results and Discussion

#### National Legal Regulation Regarding Marriage Between Indonesian Citizens and Refugees

Marriage constitutes an institution holding a central position in community life. It is not only understood as a private relationship between two individuals but also as a legal event and social institution that is regulated and recognised by the state and maintained by community norms. In the Indonesian legal context, marriage regulation is contained in Law Number 1 of 1974 concerning Marriage, subsequently updated by Law Number 16 of 2019. This law states that marriage is a physical and spiritual bond between a man and a woman as husband and wife, to form a happy and lasting family based on the One Godhead.

Mixed marriage between Indonesian citizens and foreign nationals is regulated in Article 57 of the Marriage Law, which states that mixed marriage is "marriage between two persons who in Indonesia are subject to different laws due to differences in citizenship." The basic provisions regarding mixed marriage can be carried out legally in Indonesia as long as the legal requirements from each party are met, including citizenship documents and a valid legal status. Foreign nationals wishing to marry in Indonesia must meet several administrative requirements, including a valid passport and visa, an unmarried certificate or marriage permit from the embassy of the country of origin (Certificate of No Impediment to Marriage), identity documents and proof of domicile, and document legalisation.

All these requirements mandate that foreign nationals have a valid legal status verifiable by Indonesian authorities. In practice, these provisions become the main obstacle for refugees and asylum seekers who wish to marry Indonesian citizens because they do not possess permanent citizenship, documents from the country of origin, or diplomatic representation in Indonesia. Consequently, refugees cannot fulfil the administrative requirements to marry Indonesian citizens according to national legal provisions. When civil registration offices cannot record marriages because one party does not have valid documents, the husband-wife relationship between Indonesian citizens and refugees is only valid religiously, but does not have legal force recognised by the state.

The absence of specific regulations creates a legal vacuum (*rechtsvacuum*) that brings serious consequences. When a marriage is not recorded by the state, according to Article 2 paragraph (2) of the Marriage Law, the marriage is considered invalid under state law, although it may be valid according to religion. This has significant legal implications: Indonesian citizens cannot claim legal rights and obligations in the household, such as alimony, joint property, inheritance rights, and child custody rights. In cases of domestic violence (KDRT), it is difficult for victims to report legally because the perpetrator is not recorded as a legal partner. Children born from such marriages potentially experience difficulties in birth registration. Legal protection for Indonesian citizens becomes weak because there are no official documents showing the existence of a marital relationship.

Due to the absence of specific regulations, marriages between Indonesian citizens and refugees can be misused for manipulative purposes. In many cases reported by humanitarian organisations, refugees conduct marriages with Indonesian citizens merely to increase the likelihood of resettlement (relocation to a third country), avoid deportation or detention, gain access to social facilities or residence, and use the Indonesian citizen partner's status as a legal "shield" from official surveillance. This is what is then referred to as manipulative marriage, namely, the misuse of the marriage institution aimed at obtaining illegitimate benefits. In practice, after achieving these goals, refugee partners often abandon or neglect their partners, and in some cases commit physical and psychological violence.

### **State Responsibility in Providing Protection to Indonesian Citizen Victims**

State responsibility toward its citizens constitutes a fundamental principle in modern rule of law states. In the context of Indonesia as a state based on Pancasila and the 1945 Constitution, the state not only serves as a regulator and authority holder but also as a protector and servant of the people's interests. One concrete form of state responsibility is protecting citizens who are in vulnerable situations and become victims in social relations that cause harm, including victims of manipulative marriages by refugees.

The main foundation of the state's responsibility toward its citizens is clearly stated in the 1945 Constitution. Several relevant articles in the context of protection for Indonesian citizen victims of manipulative marriages include: Article 28A stating that every person has the right to life and the right to maintain their life and livelihood; Article 28D paragraph (1) stating that every person has the right to recognition, guarantees, protection, and fair legal certainty as well as equal treatment before the law; Article 28G paragraph (1) guaranteeing that every person has the right to protection of self, family, honor, dignity, and property under their control, as well as the right to a sense of security and protection from the threat of fear; and Article 28I paragraph (4) affirming that the protection, advancement, enforcement, and fulfillment of human rights is the responsibility of the state, especially the government.

In addition to the constitution, state responsibility is also reinforced by various national legislation. Law Number 39 of 1999 concerning Human Rights in Article 4 states that the right to life, the right not to be tortured, the right to personal freedom, and the right to security are rights that cannot be diminished under any circumstances. Law Number 23 of 2004 concerning the Elimination of Domestic Violence guarantees legal protection for victims of violence within the domestic sphere. Although marriages between Indonesian citizens and refugees are not officially recorded, relationships that pose a risk of violence should still receive legal protection.

Several ministries and state institutions have strategic roles in addressing this issue. The Ministry of Law and Human Rights (Kemenkumham) has a central role in handling refugee issues and legislation. As the ministry responsible for law and human rights, Kemenkumham needs to formulate legal guidelines and technical policies that accommodate the legal needs of Indonesian citizens involved in marriages with stateless individuals. The Ministry of Home Affairs (Kemendagri), through the Directorate General of Population and Civil Registration (Dukcapil), has a key role in recording legal events concerning citizens, including marriages and births. The Ministry of Religious Affairs, through Religious Affairs Offices (KUA), can take a strategic role by issuing internal regulations that allow KUA to handle marriage cases with refugees differently. The Supreme Court needs to issue guidelines or Supreme Court Circular Letters (SEMA) providing direction to lower-level judges for handling inter-status marriage cases more inclusively.

The role of the state in protecting its citizens, especially Indonesian citizens who become victims of manipulative marriage practices by refugees, must be carried out through a clear and effectively applicable legal framework. Unfortunately, until now, the Indonesian legislation system has not explicitly regulated marriages between Indonesian citizens and individuals with refugee or asylum seeker status. This gap results in legal uncertainty, weak protection for Indonesian citizens, and the opening of opportunities for abuse of the marriage institution by individuals with unclear legal standing. Therefore, the state must form specific regulations or revise existing regulations to explicitly regulate marriages between Indonesian citizens and refugees, protection mechanisms, and legal recovery for victims.

### **Urgency of Regulatory Reform**

The phenomenon of marriages between Indonesian citizens and refugees or asylum seekers is not something that can be avoided in the context of globalisation, human mobility, and contemporary social dynamics. The national legal system of Indonesia currently does not have a normative framework that explicitly and comprehensively regulates and protects

citizens in such situations. The absence of adequate legal regulation not only creates legal uncertainty but also directly impacts fundamental aspects of citizens' lives.

Reflection on this condition shows that it is time for Indonesia to formulate specific regulations that explicitly regulate and accommodate the reality of marriages between Indonesian citizens and refugees. Such regulations do not have to equate the status of refugees with other foreign nationals but can be designed with an approach that is fair, careful, and based on human rights. The main principle that must be upheld is protection for Indonesian citizens as legitimate citizens, without neglecting the principles of state sovereignty over the recognition of the legal status of foreign parties.

Such specific regulations are expected to provide legal certainty for marriage registration, open administrative space that allows identity verification of refugees through international institutions such as UNHCR, and provide a legal basis for state apparatus in both civil registration, immigration, and law enforcement sectors to act in protecting citizens' rights. Without such regulations, Indonesia risks continuing to allow its citizens to live in the shadow of legal and social vulnerability.

## 5. Conclusion

Based on the research conducted, two main conclusions can be drawn. First, Indonesian national law has not specifically regulated marriages between Indonesian citizens and refugees or asylum seekers. Applicable regulations, such as Law Number 1 of 1974 concerning Marriage and Population Administration Law, only regulate marriages between Indonesian citizens and foreign nationals who have citizenship and official documents from their country of origin. The legal status of refugees who do not have citizenship and official documents prevents their marriages with Indonesian citizens from being unable to be legally recorded. Consequently, such relationships become vulnerable to abuse, violence, and legal uncertainty, both for Indonesian citizen partners and children born from such relationships. This condition shows the existence of a significant legal vacuum (*rechtsvacuum*) that poses risks to the protection of citizens' rights.

Second, state responsibility in protecting Indonesian citizen victims of manipulative marriages by refugees has not been optimally implemented from the perspective of national law. The state has constitutional and juridical foundations to protect citizens from all forms of violence, discrimination, and exploitation, including in the context of marriage. However, the implementation of such protection is still partial and does not reach cases involving inter-status relationships that are not legally recorded. On the legal side, available regulations are not adequate to regulate registration, legal protection, or restoration of victims' rights. On the social side, rehabilitation services and protection for victims are also not responsive to specific needs arising from manipulative relationships with refugees. Law enforcement officials also often do not have technical guidelines in handling such cases. Internationally, Indonesia also has obligations to apply the principles of non-discrimination and human rights that should be extended to all citizens in vulnerable situations.

This research recommends that the government immediately formulate specific regulations or revise existing regulations to explicitly regulate marriages between Indonesian citizens and refugees, including registration mechanisms, legal protection, and restoration of victims' rights. Strengthening the role of victim protection institutions, including P2TP2A, LPSK, Social Services, and legal aid institutions, is needed to be more responsive to manipulative marriage cases involving refugees. The state also needs to form an inter-agency coordination system, including international organisations such as UNHCR and IOM, to prevent abuse of refugee status in marital relationships and to strengthen reporting and law enforcement systems.

**Author Contributions:** Moch Rafi Khadafi Al Wali conceived and designed the research, collected and analysed legal materials, and wrote the manuscript. Dudik Djaja Sidarta supervised the research methodology and provided critical revision of the manuscript. Renda Anggraeni contributed to data analysis and manuscript preparation. All authors have read and approved the final manuscript.

**Funding:** This research received no external funding.

**Data Availability Statement:** This study is based on publicly available legal documents and secondary legal materials. No primary data was collected for this research.

**Conflicts of Interest:** The authors declare no conflict of interest.

## References

- Ahmad Agung Setya Budi. (2023). Kawin paksa dalam perspektif hukum Islam dan konteks kajian hak asasi manusia. *Jurnal Dunia Ilmu Hukum (JURDIKUM)*, 1(2), 44-49. <https://doi.org/10.59435/jurdikum.v1i2.168>
- Allagan, T. M. P., Salfa, S., & Sekarlangit, A. (2020). Legal protection of Indonesian citizens in mixed marriages with Rohingya refugees. *Indonesian Journal of International Law*, 17(2). <https://doi.org/10.17304/ijil.vol17.2.787>
- Fanny Nainggolan, J., Ramlan, R., & Harahap, R. R. (2022). Pemaksaan perkawinan berkedok tradisi budaya: Bagaimana implementasi CEDAW terhadap hukum nasional dalam melindungi hak-hak perempuan dalam perkawinan? *Uti Possidetis: Journal of International Law*, 3(1), 55-82. <https://doi.org/10.22437/up.v3i1.15452>
- Fikriana, A., & Agusfinanda, Y. (2024). Analisis perkawinan paksa sebagai tindak pidana kekerasan seksual dalam (rancangan undang-undang) penghapusan kekerasan seksual. *Dalihan Na Tolu: Jurnal Hukum, Politik Dan Komunikasi Indonesia*, 3(01), 93-99.
- Hastomo, M. F. (2023). Analisis yuridis kebiasaan perkawinan paksa menurut hak asasi manusia. *Gema Keadilan*, 10(2), 80-89. <https://doi.org/10.14710/gk.2023.20353>
- KNAKP. (2012). *Laporan tahunan: Pemantauan kebijakan daerah untuk pemenuhan hak perempuan*. Komnas Perempuan.
- Marzuki, I., & Siroj, A. M. (2023). Pemaksaan perkawinan dalam konteks kajian hak asasi manusia dan undang-undang tindak pidana kekerasan seksual.
- Putri, S. A. (2023). Eksistensi perempuan tanpa kawin paksa. *Neoclassical Legal Review: Journal of Law and Contemporary Issues*, 2(2), 19-26. <https://doi.org/10.32734/nlr.v2i2.11518>
- Qosim Baidhawi, & Qomaruzzaman. (2024). Analisis fiqih munakahat dan hak asasi manusia terhadap perkawinan paksa. *Universitas Sebelas Maret Yustisia Jurnal Hukum*, 4(3). <https://doi.org/10.20961/yustisia>
- Republic of Indonesia. (1945). *Undang-Undang Dasar Negara Republik Indonesia Tahun 1945* [1945 Constitution of the Republic of Indonesia].
- Republic of Indonesia. (1974). *Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan* [Law Number 1 of 1974 concerning Marriage].
- Republic of Indonesia. (1999). *Undang-Undang Nomor 39 Tahun 1999 tentang Hak Asasi Manusia* [Law Number 39 of 1999 concerning Human Rights].
- Republic of Indonesia. (2016). *Peraturan Presiden Nomor 125 Tahun 2016 tentang Penanganan Pengungsi dari Luar Negeri* [Presidential Regulation Number 125 of 2016 concerning the Handling of Refugees from Abroad].
- Sabrina, A. (2018). Perlindungan hukum terhadap WNI yang menikah dengan pengungsi yang berstatus stateless person. *Justitia Jurnal Hukum*.
- Trihastuti, N., Laksmi Indreswari, T., Kandou, D. R., Ardani, M. N., & Ramadhan, D. A. (2022). Legal protection of stateless persons arising from cross-border marriage: Indonesia and East Timor case study. *Universitas Sebelas Maret Yustisia Jurnal Hukum*, 11(3), 213-225. <https://doi.org/10.20961/yustisia>
- Veronica, A., Siwy, V., Karisoh, F. J. M. M., & Baftim, F. (2021). Perlindungan hukum terhadap warga negara Indonesia dalam perkawinan campuran dengan pengungsi Rohingya. *Vol. IX*(5).