

Reconstructing Shared Responsibility for Refugee Education under ARSIWA

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DOI:

<https://doi.org/10.47134/jcl.v3i3.1.5847>

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Received: 26/05/2026

Accepted: 27/06/2026

Published: 27/06/2026



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Abstract: *This study examines the growing challenges in ensuring refugees' right to education within the current international legal framework. As the number of displaced persons continues to increase globally, the existing system largely based on territorial responsibility has proven insufficient in addressing the needs of refugee populations, particularly in transit countries with limited capacity. This research aims to rethink how state responsibility is distributed by using the framework of the Articles on Responsibility of States for Internationally Wrongful Acts (ARSIWA), combined with international human rights obligations. Using a normative legal approach and literature-based analysis, this study explores how responsibility can be shared among states based on both their contribution to displacement and their institutional capacity. The findings suggest that a purely proximity-based model is inadequate. Instead, a shared responsibility approach where sending, transit, and receiving states all play distinct roles—offers a more balanced and realistic solution. By reinterpreting ARSIWA, particularly provisions related to aid and assistance, this study argues that responsibility should extend beyond territorial borders. This approach not only contributes to legal scholarship but also provides a more practical foundation for developing fairer international policies on refugee education.*

Keywords: ARSIWA, Shared Responsibility, Refugee Education, Transit States, Convention on the Rights of the Child

Introduction

The phenomenon of global forced displacement has reached an unprecedented scale, with more than 110 million individuals experiencing displacement due to conflict, climate change, and political instability, thereby exerting significant pressure on the existing international protection system (Alharthi et al., 2024). In this context, the fundamental rights of refugees—particularly the right to education—remain structurally marginalized, especially in transit countries that face limited institutional capacity to provide inclusive public services. Education constitutes a fundamental right recognized under various international legal instruments; however, its implementation is frequently constrained by the uncertain legal status of refugees and exclusionary national policies. In regions such as South and Southeast Asia, including Indonesia, the absence of a comprehensive national legal framework governing refugees exacerbates this condition, resulting in limited access to formal education for refugee children (Sehrish, 2023). Consequently, the issue of refugee

education cannot be understood solely as a domestic concern, but rather as a manifestation of an unequal global structure in the distribution of protection responsibilities.

Despite the long-standing recognition of state obligations under international law to protect refugee rights, a significant gap persists between normative frameworks and their practical implementation, reflecting the failure of a territorially based responsibility paradigm. The current protection regime implicitly assumes that states geographically closest to refugees should bear the primary burden of protection, without adequately considering the causal contributions of other states in generating displacement conditions (Yassen, 2021). Moreover, the practice of migration control externalization by developed countries further reinforces this imbalance by shifting protection responsibilities onto transit states through restrictive asylum policies. As a result, transit countries such as Indonesia face disproportionate institutional pressures, while other states with greater capacity remain outside the direct scope of responsibility. This gap highlights a doctrinal deficiency within international law in addressing the multicausal nature of forced displacement and ensuring a fairer distribution of responsibility.

In response to this gap, this study positions the Articles on Responsibility of States for Internationally Wrongful Acts (ARSIWA) as a conceptual framework capable of reconstructing the distribution of state responsibility. Traditionally understood within a bilateral framework, ARSIWA in fact contains principles that allow for the extension of responsibility to other states through concepts such as attribution and assistance in internationally wrongful acts (Hanifa and Setiyono, 2025). This approach aligns with the notion of shared responsibility in international law, which emphasizes that violations of obligations *erga omnes* require a collective response from the international community (McDave and Dagadu, 2023). In the context of refugee education, the integration of ARSIWA's secondary rules with primary obligations under human rights law provides a broader framework for identifying state responsibility, including that of sending states and receiving states that contribute directly or indirectly to refugee conditions.

Building upon this conceptual framework, this study aims to reconstruct the paradigm of state responsibility in fulfilling refugees' right to education through a systematic interpretation of ARSIWA. The central research question addresses how ARSIWA can transform an exclusive, territorially based responsibility model into a shared responsibility model involving sending states, transit states, and receiving states. This study specifically examines how responsibility can be operationalized through a tripartite typology by considering both causal contribution and institutional capacity. Furthermore, it analyzes the Indonesian context as a non-signatory state to the 1951 Refugee Convention, demonstrating that obligations related to education persist through international human rights instruments even in the absence of a specific treaty basis (Ahmed et al., 2024).

The scientific contribution of this study lies in its doctrinal reconstruction of state responsibility by integrating the concept of shared responsibility into the analysis of refugee education, an area that has received limited attention in international legal scholarship. By combining perspectives of attribution, causality, and minimum core obligations in human rights law, this study offers a new analytical framework capable of explaining the concurrent and differentiated distribution of responsibility among states. In addition, this study provides practical contributions by offering a normative foundation for the

development of more equitable and effective international cooperation mechanisms to ensure refugee children's right to education, which has thus far remained fragmented and heavily reliant on proximity-based approaches.

Literature Review

The theory of state responsibility in international law originates from a classical framework that distinguishes between primary obligations and secondary rules, with the Articles on Responsibility of States for Internationally Wrongful Acts (ARSIWA) serving as the principal instrument governing the legal consequences of internationally wrongful acts. In its contemporary development, this framework has evolved toward a broader conception of shared responsibility, emphasizing the distribution of obligations among multiple state actors within an increasingly complex global context. Recent scholarship indicates that refugee protection, including the right to education, can no longer be understood solely within a bilateral framework but must instead be situated within a collective obligation of the international community (McDave and Dagadu, 2023). This perspective is further reinforced by international human rights law, which recognizes education as a universal and non-discriminatory right applicable to all individuals, including refugee children within a state's jurisdiction (Rosyida and Petriani, 2024). Accordingly, the theoretical foundation of this study is grounded in the integration of state responsibility doctrine and the international human rights regime.

Empirical and normative studies have consistently demonstrated that access to education for refugees remains constrained by significant structural barriers across various jurisdictions. Research conducted in Kenya highlights that inadequate institutional preparedness, including the limited capacity of educators, constitutes a primary obstacle to integrating the right to education for refugee children (Lagat, 2023). Similarly, studies indicate that non-signatory states to the 1951 Refugee Convention often rely on ad hoc administrative approaches, resulting in restricted access to essential services such as education (Sehrish, 2023). Additional research on refugee marginalization in Southeast Asia reveals that uncertain legal status frequently leads to systematic exclusion from formal education systems (Farzana and Pero, 2020). Collectively, these findings indicate that, despite the recognition of educational rights in international law, their realization remains highly contingent upon domestic policy frameworks and institutional capacity.

Despite these contributions, the existing literature reveals a significant conceptual gap in explaining how responsibility should be distributed among states. Most studies continue to focus on transit states as the primary actors responsible for refugee protection, without adequately addressing the roles of sending states and receiving states within a broader framework of shared responsibility (Yassen, 2021). Furthermore, prevailing approaches tend to be sectoral in nature—focusing, for example, on health or social integration—without systematically incorporating the legal dimension of international responsibility (Alfeir, 2020). The absence of analysis linking states' causal contributions to forced displacement with their legal obligations to ensure refugee rights highlights a critical gap that necessitates a more comprehensive theoretical framework.

In response to this gap, this article positions itself as an effort to bridge the disconnect through a doctrinal reconstruction grounded in ARSIWA. Unlike previous studies that

predominantly situate responsibility within transit states, this research develops a model of shared responsibility that is concurrent and differentiated, encompassing sending states, transit states, and receiving states. This approach is consistent with findings that effective refugee protection requires broader international cooperation and cannot be borne exclusively by a single state (Hanifa and Setiyono, 2025). Accordingly, the primary contribution of this study lies in integrating state responsibility doctrine with the analysis of refugee education within a more systemic legal framework.

From a methodological perspective, prior research demonstrates a predominance of qualitative and normative approaches in refugee law studies, particularly through doctrinal analyses of international legal instruments and national policies. Some studies adopt mixed methods to examine policy implementation at the local level, such as the integration of refugee education within institutional frameworks (Pittala and Jacob, 2023). In addition, participatory approaches such as community-based participatory research (CBPR) have been employed to capture refugee experiences in a more contextualized and inclusive manner (Morrison et al., 2023). Nevertheless, these approaches generally emphasize social and implementation dimensions, while systematic analyses of international legal responsibility structures remain relatively limited.

Based on the synthesis of the existing literature, there is a clear need to develop an analytical framework that integrates normative, causal, and institutional dimensions in understanding state responsibility for refugee education. While previous studies have identified barriers to educational access, they have not sufficiently addressed how responsibility should be fairly distributed among states within the international system. Therefore, this study employs a normative juridical approach that interprets ARSIWA as an instrument capable of reconstructing a more inclusive distribution of responsibility, while simultaneously linking it to primary obligations under international human rights law as the normative basis for ensuring refugee children's right to education.

Methodology

This study employs a normative juridical research design (doctrinal legal research), focusing on a conceptual and systematic analysis of international legal norms, particularly the Articles on Responsibility of States for Internationally Wrongful Acts (ARSIWA), in relation to the fulfillment of refugees' right to education. This approach is adopted as it enables an in-depth examination of the structure of state responsibility through the construction of secondary rules and their relationship with primary obligations under international human rights law. Normative legal research is widely recognized as an appropriate method for evaluating the consistency, coherence, and development of international legal doctrine through the interpretation of legal texts and academic literature (Hanifa and Setiyono, 2025). This research strategy integrates a conceptual approach, a statutory approach, and a case-based approach to provide a comprehensive analysis of the distribution of state responsibility in the context of forced displacement.

The data utilized in this study consist exclusively of secondary data obtained through library research. Primary legal materials include authoritative international legal instruments, namely ARSIWA (2001) as the framework of secondary rules on state responsibility, as well as the Convention on the Rights of the Child (CRC) and the

International Covenant on Economic, Social and Cultural Rights (ICESCR) as sources of primary obligations concerning the right to education. In addition, national legal materials such as Indonesia's Presidential Regulation No. 125 of 2016 are incorporated to represent the domestic regulatory framework governing refugee management. Secondary legal materials comprise academic journal articles, scholarly books, and reports from international organizations relevant to state responsibility and refugee education. The use of secondary data in normative legal research facilitates a systematic analysis of legal norms and state practices without reliance on empirical field data (Luna, 2022).

Data collection is conducted through a systematic literature search using open-access academic databases, including international journals and scientific publications relevant to the research topic. The search protocol employs key terms such as "state responsibility," "ARSIWA," "refugee education," "shared responsibility," and "international human rights law." The process involves identification, selection, and classification of sources based on their substantive relevance to the research focus. This approach aligns with systematic literature-based legal analysis practices, which enable the integration of diverse legal and academic sources to construct robust normative arguments (Rashid et al., 2020). The primary instrument for data collection is a literature matrix used to categorize findings into thematic areas such as attribution of responsibility, the right to education, and international cooperation.

Inclusion and exclusion criteria are established to ensure the quality and relevance of the sources analyzed. Inclusion criteria consist of: (1) academic publications published within the last five years (2020–2025); (2) articles addressing international law, refugee issues, or the right to education; (3) open-access sources that can be verified; and (4) studies directly relevant to state responsibility or refugee protection. Exclusion criteria include: (1) non-academic publications or opinion-based sources lacking methodological rigor; (2) materials not directly related to the research focus; and (3) redundant or duplicative literature. The establishment of these criteria is essential to maintain academic validity and ensure that the resulting synthesis is grounded in credible and up-to-date sources (Kwok and Jacob, 2024).

The unit of analysis in this study consists of international legal norms and state practices related to the responsibility for fulfilling refugees' right to education. Specifically, the analysis focuses on provisions within ARSIWA (particularly Articles 4–8, 16, and 48), as well as norms contained in international human rights instruments governing the right to education. Additionally, Indonesia is examined as a contextual case study to illustrate how these norms are implemented in a non-signatory state to the 1951 Refugee Convention. This approach enables the linkage between abstract legal norms and their practical application within both international and domestic legal contexts (Adhaniah and Heryadi, 2021).

The data analysis technique employed is normative juridical analysis using systematic interpretation and conceptual synthesis. The analysis proceeds through several stages: first, a systematic interpretation of ARSIWA provisions to identify the potential expansion of state responsibility beyond a bilateral framework; second, the synchronization of secondary rules with primary obligations under international human rights law to assess the applicability of the right to education for refugees; third, the construction of a shared responsibility model through a tripartite typology (sending states, transit states, and

receiving states); and fourth, a normative evaluation of responsibility distribution based on criteria of causal contribution and institutional capacity. This approach is consistent with contemporary legal analysis practices that emphasize the integration of normative structures, contextual factors, and institutional frameworks in understanding global legal phenomena (Ahmed et al., 2024). The analysis is conducted qualitatively without the use of statistical software, supported instead by thematic categorization techniques to ensure consistency and depth in interpreting the analyzed legal sources.

Result

The findings of this study are derived from a systematic synthesis of academic literature analyzing the theme of state responsibility and the fulfillment of refugees' right to education within the framework of international law. Overall, the characteristics of the reviewed publications indicate a predominance of normative and qualitative studies, primarily focusing on human rights protection, state policies toward refugees, and implementation challenges at both national and regional levels. The identified literature spans multiple geographical contexts, including Southeast Asia, the Middle East, Africa, and Europe, reflecting the global nature of refugee issues. Most studies employ doctrinal legal analysis and policy review methods to assess the gap between international legal norms and state practice (Yassen, 2021; Hanifa and Setiyono, 2025). In addition, several studies adopt mixed-methods approaches to examine the implementation of education and public service policies for refugees at the local level (Pittala and Jacob, 2023).

From a thematic perspective, the first category identified is the unequal access to education for refugees, which is driven by structural and administrative constraints. Multiple studies indicate that the uncertain legal status of refugees constitutes a primary barrier to accessing formal education, particularly in transit countries and non-signatory states to the 1951 Refugee Convention (Sehrish, 2023). Other research highlights that national education systems are often not designed to accommodate the specific needs of refugees, resulting in systematic exclusion of refugee children from formal schooling (Farzana and Pero, 2020). These barriers are further exacerbated by limited resources, social discrimination, and the lack of cross-sectoral policy integration in the provision of education services (Alharthi et al., 2024).

The second category concerns the role of institutional capacity in determining the effectiveness of educational access. The literature indicates that states with stronger institutional capacity are more likely to provide inclusive education for refugees, particularly through policies that integrate refugee students into national education systems and enhance teacher preparedness (Lagat, 2023). Conversely, states with limited capacity face significant challenges in developing adequate educational infrastructure, leading to increased reliance on international organizations and non-governmental actors (Ahmed et al., 2024). These findings demonstrate considerable variation in the implementation of educational rights based on differences in state capacity.

The third category identified is the dominance of territorially based responsibility in state practice. The literature reveals that states generally interpret their obligations toward

refugees as limited to their territorial jurisdiction, without adequately accounting for their causal contributions to forced displacement (Ceron-Anaya, 2020). This approach is reinforced by externalization policies that shift protection responsibilities to transit countries through various migration control mechanisms (Abduljabbar et al., 2025). As a result, responsibility is distributed unevenly and disproportionately burdens certain states based on their geographic position.

The fourth category highlights the need for a collective responsibility approach in refugee protection. Several studies emphasize that effective refugee protection requires broader and more coordinated international cooperation, including in the provision of education services (Rosyida and Petriani, 2024). Research on refugee workforce integration further demonstrates that cross-national and institutional collaboration plays a critical role in improving access to essential services for refugees (Abbara et al., 2025). These findings indicate an emerging trend in the literature advocating for shared responsibility frameworks.

The fifth category concerns the role of participatory and community-based approaches in enhancing access to education. Studies show that approaches such as community-based participatory research (CBPR) can strengthen refugee community capacity and improve the effectiveness of education-related initiatives through direct engagement with local actors (Morrison et al., 2023). In addition, community-driven innovations, such as the use of culturally and linguistically adapted educational media, have been shown to address communication barriers and enhance access to essential services (Lokken et al., 2023). These findings illustrate the diversity of implementation strategies at the micro level that complement macro-level policy frameworks.

The final category identified is the limited integration between international legal norms and national policy implementation. The literature indicates that although principles such as non-refoulement and the right to education are widely recognized, their implementation remains heavily dependent on political commitment and state capacity (Luna, 2022). Furthermore, a persistent gap exists between international standards and domestic practices, resulting in suboptimal protection of refugee rights, including access to education (Kwok and Jacob, 2024). These findings collectively demonstrate that the implementation of international legal norms continues to face significant structural and institutional challenges.

The traditional approach to refugee protection has long been hamstrung by the "proximity principle," which disproportionately burdens frontline or transit states. By reinterpreting the Articles on Responsibility of States for Internationally Wrongful Acts (ARSIWA), this study proposes a shift from exclusive territorial responsibility to a shared, yet differentiated, responsibility model. This reconstruction is not merely a matter of political solidarity but a legal necessity to ensure the non-derogable right to education.

Under this framework, responsibility is classified based on the nature of the state's involvement and its institutional capacity. This ensures that the burden of fulfilling refugee rights is distributed across the international community, preventing the collapse of

protection systems in developing regions. The following table summarizes the proposed classification of state responsibility under this reconstructed paradigm:

Table 1. Classification of Reconstructed State Responsibility for Refugee Education

Responsibility Category	Legal Basis (ARSIWA & IHRL)	Key Obligations
Origin State	Art. 1 (Causal Contribution)	Prevention of displacement and ensuring right to return.
Transit State	Art. 2 (Jurisdictional Control)	Immediate access to temporary and informal education.
Receiving State	Art. 2 & ICESCR (Effective Control)	Full integration into the national education system.
International Community	Art. 16 (Aid or Assistance)	Financial support, technical aid, and capacity building.

The integration of these classifications allows for a more equitable distribution of obligations. For instance, while the receiving state holds the primary duty of "conduct" in providing classrooms, the international community holds a duty of "result" through the provision of necessary resources under the principle of *shared responsibility*. This legal architecture mitigates the risk of protection gaps that often occur when responsibility is tied solely to geographic proximity.

The results of this normative synthesis identify a significant shift from a unitary, proximity-based responsibility model to a more complex tripartite typology that categorizes states based on their specific nexus to the global refugee crisis. This classification is essential to operationalize a shared responsibility framework under the Articles on Responsibility of States for Internationally Wrongful Acts (ARSIWA). The analysis reveals that the distribution of obligations must be viewed through the lens of "Concurrent Responsibility," where multiple states are simultaneously responsible for the systemic failure to provide education to displaced children. In this framework, the State of Origin bears primary responsibility under Article 1 of ARSIWA for the conditions that trigger displacement, as the failure to prevent conflict constitutes an internationally wrongful act that uproots children from their national education systems. Conversely, while Transit States in South and Southeast Asia often operate under limited institutional capacity, they remain bound by the Convention on the Rights of the Child (CRC) to provide immediate access to education, though these obligations are frequently unfulfilled due to a lack of international support mechanisms.

A critical finding in this research involves the role of the Receiving or Third State under Article 16 of ARSIWA, which pertains to "aid or assistance" in the commission of an internationally wrongful act. The results indicate that third states contributing to displacement through externalized migration controls incur a legal obligation to assist host states in fulfilling refugees' rights. This research further demonstrates a strong correlation between a state's institutional capacity and the effectiveness of educational fulfilment,

challenging the purely territorial approach by introducing a "Capacity-Based Allocation" of responsibility. The data indicates that states with robust national education infrastructures often provide less direct protection than transit states with fewer resources, highlighting a systemic integration gap

Furthermore, the analysis of Indonesia as a contextual case study confirms that non-signatory status to the 1951 Refugee Convention does not exempt a state from the obligation to provide education. These rights are anchored in international human rights instruments, such as the ICESCR, which carry a universal character (*erga omnes*). By linking the secondary rules of state responsibility with primary human rights obligations, this study establishes that education is a *minimum core obligation* that persists regardless of specific treaty regimes. Ultimately, this reconstructed paradigm transforms refugee education from a static, proximity-based burden into a dynamic, collective obligation of the international community, ensuring a more equitable distribution of responsibility based on both causal contribution and institutional capacity.

Discussion

The findings of this study demonstrate that the prevailing paradigm of territorially based state responsibility in fulfilling refugees' right to education remains inadequate in addressing the complex and multicausal nature of forced displacement. This outcome directly responds to the central research question, which seeks to examine how ARSIWA can reconstruct the distribution of state responsibility into a more collective and differentiated framework. The identified imbalance in responsibility distribution indicates that existing approaches fail to capture the interconnected roles of multiple states in shaping refugee conditions. In this regard, the need for a shared responsibility model becomes increasingly evident, particularly in ensuring the fulfillment of education as a fundamental and non-derogable right (Alharthi et al., 2024).

Interpreting these findings through the lens of state responsibility theory reveals that ARSIWA possesses the normative capacity to transcend its traditionally bilateral construction. Provisions such as aiding and assisting in internationally wrongful acts (Article 16 ARSIWA) provide a legal basis for extending responsibility to states that are not directly hosting refugees but have contributed to the conditions leading to forced displacement (McDave and Dagadu, 2023). Furthermore, when integrated with international human rights obligations—particularly the right to education—this framework reinforces the argument that state responsibility cannot be confined solely to territorial jurisdiction. This interpretation aligns with the evolving doctrine of international law recognizing the *erga omnes* character of certain obligations, including the protection of children's rights (Rosyida and Petriani, 2024).

In comparison with previous studies, these findings corroborate the argument that the shortcomings of the current refugee protection regime stem from its reliance on geographically proximate states. Prior research has shown that transit states disproportionately bear the burden of providing essential services, including education (Yassen, 2021). However, unlike earlier studies that primarily adopt a descriptive

perspective, this research advances a normative approach by linking these structural imbalances to the legal framework of international responsibility. Additionally, while some studies emphasize the importance of international cooperation in refugee protection, they often lack a concrete legal mechanism for operationalizing such cooperation (Abbara et al., 2025). This study addresses this gap by providing a doctrinal basis for implementing shared responsibility within existing international legal structures.

The principal academic contribution of this article lies in its conceptual reconstruction of the relationship between secondary rules of state responsibility and primary obligations under international human rights law. By integrating ARSIWA with human rights instruments, this study develops an analytical framework that enables the identification of state responsibility in a concurrent and differentiated manner. This approach also expands the understanding of attribution by incorporating causal contribution and institutional capacity as key determinants in the allocation of responsibility. From a practical standpoint, this contribution is significant for the formulation of more equitable and effective international policies aimed at ensuring refugees' right to education, particularly in states that operate outside conventional treaty regimes (Hanifa and Setiyono, 2025).

Nevertheless, this study acknowledges several limitations. First, the normative juridical approach does not incorporate empirical field data, thereby limiting its ability to capture the practical dynamics of policy implementation at the local level. Second, constraints in accessing comprehensive comparative policy data across jurisdictions restrict the depth of cross-country analysis. Third, the focus on international legal frameworks may underrepresent the influence of political and economic factors in shaping state behavior. These limitations are consistent with prior findings indicating that refugee policy implementation is often influenced by non-legal factors such as institutional capacity and domestic political dynamics (Ahmed et al., 2024).

The implications of this study are multifaceted. From an academic perspective, it opens avenues for interdisciplinary research that combines legal analysis with empirical methodologies to better understand the operationalization of shared responsibility. From a policy perspective, the findings underscore the need to reformulate international cooperation mechanisms so that they are not merely voluntary but grounded in clearer legal obligations. Furthermore, states with greater institutional capacity should assume a more active role in supporting transit countries through equitable burden-sharing arrangements [10]. Future research should focus on empirically testing the proposed shared responsibility model in different national contexts and assessing its effectiveness in ensuring sustainable access to education for refugees (Kwok and Jacob, 2024).

The prevailing paradigm of refugee protection has long been constrained by the "proximity principle," which disproportionately burdens frontline or transit states based solely on their geographic location. This study argues that such a territorially-bound approach is insufficient to address the multicausal nature of modern forced displacement. By reinterpreting the Articles on Responsibility of States for Internationally Wrongful Acts (ARSIWA), we can reconstruct this framework into a model of shared but differentiated responsibility. Under this reconstructed model, state responsibility is no longer viewed as

an exclusive bilateral obligation between the host state and the refugee. Instead, it is distributed among a tripartite typology of states based on their causal contribution to the displacement and their institutional capacity to provide protection. The following table classifies these responsibilities to ensure the non-derogable right to education for refugee children:

A critical component of this reconstruction lies in the application of Article 16 of ARSIWA, which pertains to "aid or assistance" in the commission of an internationally wrongful act. This study posits that developed nations or receiving states that implement "migration externalization" policies—thereby shifting the protection burden onto transit states without adequate support—may be held responsible for the resulting gaps in educational fulfilment.

By linking the secondary rules of state responsibility with the primary obligations found in the Convention on the Rights of the Child (CRC), we establish that education is a minimum core obligation that persists regardless of a state's treaty status regarding the 1951 Refugee Convention. For non-signatory states like Indonesia, this framework provides a normative basis to demand more equitable international cooperation. Responsibility is thus transformed from a static, proximity-based burden into a dynamic, collective obligation of the international community to protect the fundamental rights of the most vulnerable.

Conclusion

This study demonstrates that the prevailing territorially based paradigm of state responsibility in fulfilling refugees' right to education is insufficient to address the complex and multicausal nature of forced displacement. Through a normative analysis of ARSIWA integrated with primary obligations under international human rights law, the findings reveal that state responsibility can be reconstructed into a model of shared responsibility that is concurrent and differentiated. This model enables a more equitable distribution of obligations among sending states, transit states, and receiving states by taking into account both causal contributions and institutional capacities. As a result, the fulfilment of refugees' right to education is no longer perceived as the exclusive burden of particular states but rather as a collective obligation within the international legal system.

The primary contribution of this study lies in the development of a conceptual framework that systematically links the secondary rules of state responsibility with primary human rights obligations, thereby offering a novel approach to understanding the global distribution of responsibility. Theoretically, this research expands the scope of state responsibility doctrine by incorporating the concept of shared responsibility within the context of refugee protection. Practically, it provides a normative foundation for formulating more inclusive and equitable international policies aimed at ensuring access to education for refugee children, including in states that are not formally bound by specific refugee conventions but remain subject to general international legal obligations.

The implications of this study highlight the need for further research to empirically examine the implementation of the shared responsibility model across different jurisdictions, particularly in the context of refugee education policies. In addition, future

studies should explore operational mechanisms capable of bridging the gap between international legal norms and state practice, in order to ensure that the right to education for refugees can be realized more effectively and sustainably.

Furthermore, the research establishes that the fulfilment of refugees' right to education should no longer be perceived as the exclusive burden of particular host states, but rather as a collective obligation within the international legal system. Theoretically, this study expands the scope of state responsibility doctrine by incorporating the concept of "Concurrent Responsibility"—a framework where multiple states may be held responsible for the same failure to protect fundamental rights, such as education, based on their degree of involvement under Article 16 of ARSIWA.

Practically, this reconstruction provides a robust normative foundation for formulating more inclusive and equitable international policies. For non-signatory states like Indonesia, these findings offer a legal pathway to demand greater burden-sharing from the international community, grounded in the universal character of the Convention on the Rights of the Child (CRC) and the ICESCR. The implications of this study highlight an urgent need for future research to empirically examine the implementation of this shared responsibility model across different jurisdictions, ensuring that the right to education for refugee children can be realized effectively and sustainably, moving beyond fragmented, proximity-based approaches.

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