

Political Asylum as a Geopolitical Instrument: A Study of Defection and Its Implications for Foreign Policy

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Abstract: Political asylum has long been a sensitive issue in international relations, especially when granted to defectors or figures labelled as traitors by their home countries. This study aims to analyze the shift in meaning and function of political asylum in modern international relations, explain the geopolitical impact of defection accompanied by the granting of asylum, examine the foreign policy responses of the country of origin and the asylum-granting country, and provide an understanding of the dynamics of diplomatic tensions and foreign policy strategies related to the practice of granting asylum. This study uses a normative (doctrinal) juridical method, with a conceptual approach, legislation, and case studies. The data sources used are secondary data obtained through literature studies, consisting of primary legal materials, and tertiary Legal Materials. The results of the analysis show that political asylum has evolved from mere protection against persecution to an instrument of negotiation and geopolitical influence. Granting asylum to defectors has been proven to worsen diplomatic relations between countries, but on the other hand it is also used as a strategy of political pressure on the defector's country of origin. Therefore, countries need to balance between their commitment to protecting human rights and national interests, especially amidst increasing multi-regional geopolitical tensions. It is recommended that international legal norms be strengthened to clearly regulate the boundaries between the right to protection of individuals and the potential for political exploitation of asylum practices.

Keywords: Political Asylum, Defection, Geopolitics, International Relations, Human Rights

A. Introduction

Political asylum has long been a sensitive issue in international relations, especially when granted to individuals who have defected or are considered traitors by their home countries. The granting of such asylum not only involves humanitarian considerations but also carries significant diplomatic consequences. Political asylum is often used by countries as a diplomatic tool to influence bilateral relations; diplomatic tensions can be mitigated if asylum is granted selectively and in accordance with internationally recognized principles.¹ In the context of modern international relations, this action is often seen as a form of political

¹ Janardana Putri and I Made Budi Arsika, “Pemberian Suaka Diplomatik Dalam Hukum Internasional: Dilema Antara Aspek Kemanusiaan Dan Tensi Hubungan Bilateral,” *Undang: Jurnal Hukum* 5, no. 2 (2022): 293–323, <https://doi.org/10.22437/ujh.5.2.293-323>.



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intervention, which can trigger bilateral tensions and even jeopardize geopolitical stability between countries. In the context of contemporary geopolitics, granting asylum is no longer merely a humanitarian act, but can be used as a tool for diplomatic pressure, a political statement, or a signal of tension between countries. Diplomatic asylum does not have a strong legal basis in general international law, unlike territorial asylum, which is based on the principles of state sovereignty and jurisdiction.² However, in emergency situations and on humanitarian grounds, this practice may be justified under international law, particularly in the context of human rights protection.³

A number of cases, such as that of Julian Assange, founder of WikiLeaks, have attracted global attention since he was arrested by British police on April 11, 2019, at the Ecuadorian Embassy in London. Assange had been sheltering at the embassy since 2012 to avoid extradition to Sweden on charges of sexual assault, which were later dropped, but the case was later reopened. The arrest occurred after Ecuador revoked the diplomatic asylum granted to him. Additionally, the United States filed an extradition request accusing Assange of conspiring to access classified U.S. government computers, which could result in up to five years in prison. Assange was also found guilty of violating bail conditions in the UK and sentenced to 12 months in prison.⁴

In Assange's case, the asylum granted by Ecuador was a form of diplomatic protection aimed at preventing Assange from being extradited, which was considered a potential threat to his freedom and safety. However, this asylum also had complex geopolitical dimensions, as Assange was considered by several countries, particularly the United States, to be a threat to their national security. Assange's case shows how political asylum can be used as a diplomatic tool and geopolitical instrument. Ecuador's granting of asylum is not merely about individual protection but also a political statement challenging the power of major nations, particularly the US. By granting asylum, Ecuador took a risky position in the global geopolitical arena, which ultimately led to the revocation of the asylum due to international pressure.

Another case involved North Korean diplomat Ri Il Kyu, who served as political counselor at the North Korean Embassy in Cuba, defecting to South Korea in November 2024.⁵ The defection of North Korean diplomats and elite citizens provides South Korea and its allies with important information about North Korea's policies, strategies, and internal conditions. South Korea uses the granting of political asylum to defectors as a diplomatic tool to weaken the North Korean regime and demonstrate its commitment to human rights and individual freedoms. This phenomenon raises a fundamental question: has political asylum now become an active geopolitical instrument, rather than merely a response to persecution?

This study uses two main theories, Neoclassical Realism, which explains that a country's foreign policy is influenced by international structures (anarchy) and domestic factors (leader

² Lucia Ch. O. Tahamata, "Suaka DiplomatiK Dalam Kajian Hukum Internasional," *Sasi* 17, no. 2 (2011): 83, <https://doi.org/10.47268/sasi.v17i2.356>.

³ Putri and Arsika, "Pemberian Suaka DiplomatiK Dalam Hukum Internasional: Dilema Antara Aspek Kemanusiaan Dan Tensi Hubungan Bilateral."

⁴ Vanessa Buschschluter, "Why Has Edward Snowden Turned to Ecuador for Asylum?," 2013, <https://www.cbc.ca/news/world/assange-arrested-london-1.5093405>.

⁵ Dewi Rina Cahyani, "Diplomat Korea-Utara Bawa Istri Dana Anaknya Membelot Ke Korsel," 2024, <https://www.tempo.co/internasional/diplomat-korea-utara-bawa-istri-dan-anaknya-membelot-ke-korsel--39639>.

perception, state capacity).⁶ This theory helps explain how countries use political asylum as a tool of power and influence in international relations. International Constructivism theory argues that international reality is not something fixed and objective, but rather shaped by social interactions, perceptions, and interpretations of international actors. International norms and collective identities greatly influence state behavior. States do not act solely based on material interests, but also based on what they consider to be right, legitimate, and consistent with their identity.⁷ This theory will explain how norms, identities, and social values, such as human rights and diplomacy, shape asylum decisions. This theory is important for understanding how international norms and social perceptions influence political asylum policy.

This study aims to analyze the shift in meaning and function of political asylum in modern international relations, explain the geopolitical impact of defection accompanied by the granting of asylum, examine the foreign policy responses of the country of origin and the asylum-granting country, and provide an understanding of the dynamics of diplomatic tensions and foreign policy strategies related to the practice of granting asylum.

B. Methodology

This study uses a normative (doctrinal) juridical method, with a conceptual approach, legislation, and case studies. The data sources used are secondary data obtained through literature studies, consisting of primary legal materials, and tertiary Legal Materials. The data used in this study is secondary data, obtained through library research. Secondary data in this study is classified into three types of legal materials, namely (1) Primary Legal Materials, international conventions such as Universal Declaration of Human Rights (UDHR)⁸, 1951 Refugee Convention⁹, 1961 Vienna Convention¹⁰, and asylum treaties; national legislation relating to diplomatic relations and asylum protection. Secondary legal materials, literature, scientific journals, academic articles, previous research results, and opinions of international legal experts discussing political asylum, diplomatic relations, and defection. Tertiary legal materials, legal dictionaries, international legal encyclopedias, bibliographic indexes, as well as summaries of legal documents and other supporting sources.

C. Results and Discussion

Conceptualization of Political Asylum

In international legal practice, the term asylum is often used interchangeably, even though each type has different characteristics, legal bases, and contexts for granting asylum. To understand the dynamics of cross-border protection more comprehensively, it is important to distinguish between political asylum, diplomatic asylum, and humanitarian asylum, which often arise in situations of international crisis or inter-state relations.

⁶ Veronika Buntaran, "Bantuan Luar Negeri Sebagai Instrumen Diplomasi: Studi Kasus Bantuan Kemanusiaan Rusia Kepada Donbas Dalam Konflik Rusia-Ukraina 2014-2015," *Journal of Chemical Information and Modeling* 53, no. 9 (2013): 1689–99.

⁷ Cecep Zakarias El Bilad, "Konstruktivisme Hubungan Internasional: Meretas Jalan Damai Perdebatan Antarparadigma," *Jurnal Studi Hubungan Internasional*, 1, no. (2) (2019): 66–84.

⁸ United Nations, "Universal Declaration of Human Rights," n.d., <https://doi.org/10.1093/oxfordhb/9780199560103.005.0005>.

⁹ United Nations, "The Refugee Convention, 1951," *Verfassung in Recht Und Übersee*, 1951, <https://doi.org/10.5771/0506-7286-1999-3-397>.

¹⁰ United Nations, "The Vienna Convention on Diplomatic Relations (1961)," *International Law* § (1961), <https://doi.org/10.4324/9781843143055-31>.

Political asylum in international law refers to the protection granted by a country to foreign individuals who flee their home country for fear of persecution related to political reasons, such as opinions, beliefs, or activities that are opposed to the ruling regime.¹¹ This convention does not explicitly use the term “political asylum,” but it establishes the legal basis for the protection of refugees who are the main objects of asylum practices. Based on Article 1A (2), political asylum falls under the category of persecution on the basis of political opinion, so individuals with such fears qualify as refugees.

Meanwhile, according to the 1967 Protocol Relating to the Status of Refugees,¹² the geographical and temporal limitations in the 1951 Convention were removed, making it universally applicable and unlimited in time. The concept of protection for refugees, including those in need of political asylum, applies more broadly in various situations of modern political conflict.

Article 33 of the 1951 Refugee Convention recognizes the principle of non-refoulement as a fundamental norm in international refugee law that prohibits a country from expelling or returning (refouler) an asylum seeker or refugee to their country of origin or another country if there are valid reasons to believe that the person would face a threat to their life or freedom.¹³ This principle is *jus cogens* (a norm of international law that cannot be overridden). It provides the moral and legal basis for granting asylum and refugee protection. However, the tension between legal obligations and political interests often leads to controversy and inconsistent practices at the national level.¹⁴ The principle of non-refoulement applies unconditionally to states parties to the 1951 Convention. It is also recognized as customary international law and is binding even on states not party to the Convention.

In the case of Edward Snowden, he fled the US and was granted temporary asylum by Russia. The US then demanded his extradition on espionage charges. Russia then refused the request on the basis that Snowden could potentially be subjected to unfair treatment or political persecution, so a return would violate the principle of non-refoulement.¹⁵

A refugee may be excluded from non-refoulement protection under Article 33(2)¹⁶ If, he/she is considered a threat to national security, or has been convicted of a serious crime and his/her presence endangers the society of the country of asylum. This article provides limited exceptions to the principle of non-refoulement, which is generally absolute. The aim is to balance the protection of refugees' rights with the state's obligation to maintain national security and public order.

In contrast to political asylum, diplomatic asylum is protection granted by a state through its embassy or diplomatic representative to individuals seeking protection from arrest or

¹¹ United Nations, “The Refugee Convention, 1951.”

¹² UNHCR, “Konvensi Dan Protokol 1951 Tentang Pengungsi,” *United Nations*, 1966, 45, <https://www.unhcr.org/id/wp-content/uploads/sites/42/2017/05/KonfensidanProtokol.pdf>.

¹³ Terhadap Pengungsi et al., “Prinsip Non-Refoulement Pengungsi Di Indonesia United Nation High Commissioner for Refugees Refugees in International Relations “Refugees Are People Who Cross International Borders in Order to Flee Human Rights Abuses and Conflict . Refugees Are Prima Facie Evidence of Human Rights Violations and Vulnerability . People Who Are Persecuted and Deprived of Their Homes and Communities and Means of Livelihood Are Frequently Forced to Flee across the Borders of Their Home Countries and Seek Safety United Nations High Commissioner for Refugees Menurut Data United Nation High Commissioner for Refugees,” 2024.

¹⁴ Sigit Riyanto, “Prinsip Non-Refoulement Dan Relevansinya Dalam Sistem Hukum Internasional,” *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 22, no. 3 (2012): 434, <https://doi.org/10.22146/jmh.16234>.

¹⁵ Devi Asprilla, Ayub Torry, and Satriyo Kusumo, “Legalitas Pemberian Suaka Terhadap Edward Snowden Oleh Rusia,” *Belli Ac Pacis* 2, no. 1 (2016): 5–23, <http://www.tempo.co>.

¹⁶ UNHCR, “Konvensi Dan Protokol 1951 Tentang Pengungsi.”

persecution in the territory of the state where the embassy is located. The 1961 Vienna Convention does not explicitly regulate diplomatic asylum, but Article 41 paragraph (3)¹⁷ opens up space for bilateral agreements on the use of foreign representative offices for protection.

According to Starke and Suryokusumo, there is no general right for the head of a foreign mission to grant diplomatic asylum, which would violate the sovereignty of the receiving state.¹⁸ One famous asylum case is the 1951 Asylum case between Colombia vs Peru, in 1949, a Peruvian political figure, Víctor Raúl Haya de la Torre, who was an opposition leader and accused of involvement in a military coup, fled and requested asylum at the Colombian Embassy in Lima, Peru. The Colombian government granted diplomatic asylum to Haya de la Torre on political and humanitarian grounds. The Peruvian government refused to grant safe conduct and did not recognize the legality of the grant of diplomatic asylum.¹⁹ The dispute was then brought to the International Court of Justice (ICJ). The ICJ ruling rejected Colombia's claim and held that, no provision of international law, either general or regional, entitles a diplomatic asylum granting state to unilaterally determine the status of a refugee and oblige the receiving state to abide by that decision.²⁰

Reacting to the legal uncertainty surrounding the practice of diplomatic asylum, which came under scrutiny after the Asylum Case (Colombia vs Peru, 1951), countries in Latin America felt the need to regulate the rights and obligations surrounding the granting of diplomatic asylum regionally as the practice was prevalent in their region, especially during times of political conflict and military coups, hence the birth of the Karakas Convention.²¹

This convention expressly grants diplomatic asylum by diplomatic representatives in foreign countries. Some important provisions in the Karakas Convention, States have the right to grant diplomatic asylum to individuals threatened for political crimes. Asylum should not be granted to those involved in common crimes or violations of international law, such as war crimes or crimes against humanity. States where embassies are located are encouraged to provide safe conduct to enable individuals granted asylum to leave the country for a third country or an asylum granting country.²² However, this convention is regional in nature and only applies to countries that ratify it, most of which are members of the Organization of American States (OAS). It is not binding on countries outside the Americas, such as European, Asian, or African countries. Although not universally recognized, the convention is a key legal foundation for countries in the region in balancing humanitarian protection and respect for the sovereignty of the receiving country.

Furthermore, in International Law we recognize the term Humanitarian Asylum, which is protection given to individuals who face serious threats to their lives or safety due to humanitarian situations, such as war, natural disasters, or gross human rights violations, without having to be directly related to political reasons. Humanitarian asylum is granted to refugees who do not meet the criteria for political asylum but still need protection. It is often

¹⁷ United Nations, The Vienna Convention on Diplomatic Relations (1961).

¹⁸ Tahamata, "Suaka DiplomatiK Dalam Kajian Hukum Internasional."

¹⁹ International Court of Justice, "Haya de La Torre (Colombia v. Peru)," n.d., <https://www.icj-cij.org/case/14>.

²⁰ UNHC, "Asylum Case (Colombia v. Peru)," n.d., <https://www.refworld.org/jurisprudence/caselaw/icj/1950/en/94532>.

²¹ Jun Justinar, "Pemberian Suaka Dalam Perspektif Hukum DiplomatiK," *Hukum Pidana Dan Pembangunan Hukum* 1, no. 2 (2019), <https://doi.org/10.25105/hpph.v1i2.5462>.

²² American States, "MULTILATERAL Convention on Diplomatic Asylum . Concluded at Caracas on Authentic Texts : Spanish , English , Portuguese and French . MULTILATERAL Convention Sur l ' Asile Diplomatique . Conclue Caracas Le CONVENTION 1 ON DIPLOMATIC ASYLUM The Governments" 1438, no. 24377 (1986).

granted under national policies or broader international agreements, including the protection of refugees and internally displaced persons. It can be temporary or permanent, depending on conditions in the country of origin and the policies of the receiving country. According to Enny Soeprapto in an article compiled by Maya I. Notoprayitno, the general principles of asylum are, asylum cannot be claimed as a right, it can only be requested and granted; the granting of asylum is the right of the state and should not be considered an act of hostility; asylum must be peaceful and humanitarian, not subject to the principle of reciprocity; asylum is not granted to perpetrators of serious crimes or violators of the principles of the United Nations.²³

One such humanitarian asylum practice was the Syrian refugees in Europe 2015, where millions of Syrians fled the civil war. Many of them did not meet the criteria of political refugees, but were nonetheless granted protection on humanitarian grounds, including access to shelter, healthcare, and temporary residence permits.²⁴ Humanitarian asylum has also been granted by Indonesia since 2009 to Rohingya refugees, despite not being a party to the 1951 Convention. The protection provided falls under the category of humanitarian asylum, based on international solidarity and the principle of non-refoulement.²⁵

Political Asylum in Geopolitical Perspective

Neoclassical Realism combines, an anarchic international structure, where there is no supreme authority governing interstate relations, and domestic factors, such as leader perception, ideology, and state capacity, in explaining state behavior.²⁶ In the context of political asylum, Neoclassical Realism theory explains that states do not grant political asylum solely for humanitarian reasons, but also because of strategic calculations and national interests.²⁷ Asylum is used as a tool of diplomacy and geopolitical pressure, especially in situations of ideological conflict or bilateral tensions.

If we look at the Edward Snowden case (US-Russia), Russia granted political asylum to Snowden not only as a form of protection against human rights violations, but also as a strategic maneuver against US intelligence dominance, as well as to display Russia's power and autonomy in the global order. Meanwhile, in the case of Julian Assaange, Ecuador used political asylum for Assange to assert its diplomatic independence from Western pressure, while building an image as a country that opposes imperialism and supports freedom of information.

Constructivism theory argues that international reality is social, not just material. States act based on their identities, norms and values. Foreign policy (including political asylum) is

²³ Maya I Notoprayitno, "Suaka Dan Hukum Pengungsi Internasional," *Jurnal Cita Hukum* 1, no. 1 (2013), <https://doi.org/10.15408/jch.v1i1.2983>.

²⁴ Martin Wagner, "2015 in Review How Europe Reacted to The Refugee Crisis," International Centre of Migration Policy Development, 2015, <https://www.icmpd.org/blog/2015/2015-in-review-how-europe-reacted-to-the-refugee-crisis>.

²⁵ Rosmawati, "Perlindungan Terhadap Pengungsi/Pencari Suaka Di Indonesia (Sebagai Negara Transit) Menurut Konvensi 1951 Dan Protokol 1967 Protection of Refugees/Asylum Seekers in Indonesia (As a Transit State) in the 1951 Convention of and the 1967 Protocol," *Kanun Jurnal Ilmu Hukum* Vol. XVII, no. 67 (2015): 457–76, <https://jurnal.usk.ac.id/kanun>.

²⁶ Mohamad Rosyidin, "Realisme versus Liberalisme: Suatu Perbandingan Paradigmatis," *Indonesian Perspective* 7, no. 2 (2022): 134–44, <https://doi.org/10.14710/ip.v7i2.50775>.

²⁷ Intan Pelangi, *Perlindungan Terhadap Para Pencari Suaka Di Indonesia*, 2017, <https://repository.ummetro.ac.id/files/artikel/3248.pdf>.

shaped by social interactions, global perceptions and moral consensus.²⁸ States see themselves as part of a global community that upholds certain values, and build international legitimacy through asylum measures. This can be seen in the Asylum of Uyghur Activists by European countries.²⁹ Asylum is understood as an action shaped by social perceptions and international norms, not merely a calculation of power. States act in accordance with what is considered right, legitimate and consistent with their collective identity.

Through Neoclassical Realism, we understand that political asylum is used as a geopolitical tool and strategic leverage by states in a competitive international system. Through Constructivism, we see that international norms, social values and state identity strongly influence asylum decisions, especially when states want to be seen as protectors of human rights and justice. Asylum granting, then, is often a combination of strategic interests and normative commitments, and both must be analyzed to understand the dynamics of geopolitics and moral legitimacy in international relations.

The North Korean defection case is one of the most obvious examples of how political asylum is used as a political tool in ideological conflicts and struggles for influence, especially between North Korea, South Korea, and Western countries. In this context, the defection of North Koreans and the granting of asylum by South Korea and the West have become ideological symbolic statements, and political maneuvers in the competition for global power and influence. Defectors interviewed by Western media often become tools of the anti-North Korea narrative, telling stories of human rights violations, torture, and the harsh life in North Korea. Defections are used by South Korea and the West as a means of delegitimizing the Pyongyang government, while strengthening the democracy and human rights narratives. So the neoclassical realism theory analysis of this case is that South Korea and Western countries provide asylum because of geopolitical and intelligence calculations, increasing their political legitimacy in the region, showing that their ideology is superior to North Korea. Meanwhile, the analysis according to constructivism theory is that the asylum-giving country (such as South Korea or the US) acts based on its identity as a protector of democracy and human rights, a legitimate country for all Koreans (for South Korea), a country that considers itself internationally moral in response to political oppression.

D. Conclusion

Asylum in International Law is distinguished in Political Asylum, Diplomatic Asylum and Humanitarian Asylum, in its various forms, has legal, political and humanitarian dimensions. It has different concepts and practices in international relations. The practice of granting asylum depends not only on international law, but is also influenced by the diplomatic context, ideological conflicts, and global social values. The principle of non-refoulement is central to the protection of refugees and asylum seekers. Asylum has evolved from protection against persecution to a tool of geopolitical negotiation and influence. Granting asylum to defectors can strain diplomatic relations, but is also used as a strategy for political pressure on countries of origin. States need to balance human rights commitments and national interests, especially in an era of globalization and multi-regional tensions. There is a need to strengthen

²⁸ Sugiarto Pramono and Andi Purwono, "Konstruktivisme Dalam Studi Hubungan Internasional: Gagasan Dan Posisi Teoritik," *Konstruktivisme Dalam Studi HI* 7, no. 6 (2010): 14–20, <https://publikasiilmiah.unwahas.ac.id/index.php/SPEKTRUM/article/view/485>.

²⁹ Iwan Santosa, "AS Kanada Tawarkan Suaka Bagi Warga Uighur Yang Dikirim Thailand Ke China," n.d., <https://www.kompas.id/artikel/as-kanada-tawarkan-suaka-bagi-warga-uighur-yang-dikirim-thailand-ke-china>.

international norms that set the line between the right to protection and political exploitation of asylum. The granting of political asylum cannot be separated from the context of ideological competition and global influence. This article shows that asylum practices are the result of a combination of strategic calculations (Neoclassical Realism) and normative commitments to international values (Constructivism). Therefore, political asylum policies must be analyzed by considering both material interests as well as the symbolic and moral meanings they contain.

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