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Refugee Rights Situation in Indonesia
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Introduction

1. SUAKA Indonesia (SUAKA) is an association for the protection of refugee rights. Founded in 2012, SUAKA is a network of voluntary civil society, consisting of individuals and organizations that aims to work for the protection and advancement of the human rights of refugees and asylum seekers in Indonesia.
2. RDI Urban Refugee Research Group (RDI UREF) is a part of Resilience Development Initiative (RDI), a think tank focusing on resilience and sustainable development. RDI UREF aims to increase awareness, knowledge base, and public discourse on the impact of international forced displacement and how it can contribute to urban development.
3. Jakarta Legal Aid Institute (LBH Jakarta) is a non-government public institution that provides free legal aid services to the poor, the lawless and the oppressed who fight for justice on the violations of law and human rights. Established in 1970, LBH Jakarta has continued to provide structural legal assistance to the community to realize the rule of law and the promotion of human rights in Indonesia. LBH Jakarta is part of the Indonesian Legal Aid Foundation.
4. Dompot Dhuafa is an Islamic philanthropy humanitarian organization that aims to establish an empowered global community through a righteous system-based services, advocacy, and empowerment

5. Geutanyoe Foundation is a non-profit organization based in Aceh, Indonesia. We are dedicated to cultivating and upholding values of dignity, humanity, equality, justice, peace, democracy, and sustainability in Southeast Asia.
6. Human Rights Working Group is a network of more than 48 non-governmental organizations working on promoting human rights in Indonesia. It was established in 2000 by NGOs sharing similar interests and seeking a platform to coordinate and lead international advocacy efforts.

Refugee Rights Situation Overview

7. This submission provides an overview of the refugee rights situation in Indonesia and the effectiveness of refugee management of the Government of Indonesia since the last UPR (Third Cycle). There were two recommendations specific to the issues of refugees, one of which was supported by the Government of Indonesia (139.147 - Colombia)¹ and one noted recommendation (141.55 - Ireland).² In addition to these specific recommendations, Indonesia also supported many recommendations on other rights which would be applicable for refugees and asylum seekers. However, this report has documented the weak commitment made by the Government of Indonesia to follow up the recommendations for the betterment of refugee rights in the country.
8. Per February 2022, Indonesia is host to 13,174 refugees and asylum seekers.³ The top three of the population are from Afghanistan, Somalia and Myanmar. Of this population, 13 people are in immigration detention facilities, 97 children are either unaccompanied or separated from their caregiver, and 41 of whom are women.
9. As a non-party to the Convention Relating to the Status of Refugees (“1951 Refugee Convention”), Indonesia considers itself as a transit country,⁴ thus not able to offer local integration options for refugees and asylum seekers as a long-term solution.⁵ However, Indonesia is a State Party to eight out of nine UN Core Conventions, thus having obligations to comply with the ratified Conventions to protect refugee rights according to the international standards.
10. At national level, Indonesia guarantees the right to seek asylum under Law No. 39 of 1999 on Human Rights in Article 28 (1) which stated, “*every person has the right to seek and receive political asylum from another country.*”⁶ The right to seek asylum is also regulated in Law No. 37 of 1999 on Foreign Relations Chapter VI on Granting Asylum and Refugee Matters which stipulates that granting refugee/asylum seeker status is the authority of the

¹ A/HRC/36/7, recommendation 139.147 (Colombia).

² A/HRC/36/7/Add.1, recommendation 141.55 (Ireland).

³ UNHCR Indonesia, *Monthly Statistical Report*, February 2022.

⁴ UN News, *Vaccinating refugees in Indonesia, for the benefit of all*, 2021.

<https://news.un.org/en/story/2021/11/1104922>

⁵ Jakarta Globe, *Self-Empowerment Crucial for Refugees in Indonesia: UNHCR*, 2020.

<https://jakartaglobe.id/news/selfempowerment-crucial-for-refugees-in-indonesia-unhcr/>

⁶ Indonesia, *Law No. 39 of 1999 on Human Rights*. Official English version:

<https://peraturan.go.id/common/dokumen/terjemah/2019/UU%2039%201999%20English.pdf>

President.⁷ Therefore, it is mandated under the same regulation that there should be a Presidential level decision to further regulate this matter.

11. The mandate was executed on 31 December 2016, when Indonesia's President signed the Presidential Regulation No. 125 of 2016 on The Handling of Foreign Refugees⁸ which adopted the definition of refugee stipulated by the 1951 Convention. However, it only regulates the refugee handling procedure on the time of emergency without a guarantee of human rights fulfillment.⁹

Durable Solutions for Refugees in Indonesia

Access to Resettlement

12. Indonesia is not a Party to the 1951 Refugee Convention, and as a result, is unable to offer long-term resettlement for refugees and asylum seekers in its territory. However, Indonesia is Party to eight out of nine UN core conventions except the Convention for the Protection of All Persons from Enforced Disappearance (“CED”). These international conventions outline Indonesia's responsibility and commitment in adhering to the protection of human rights at the international level. Furthermore, the definitions of protected persons within these conventions largely overlap those of refugees and asylum seekers, who seek asylum and protection from threats of torture, inhumane treatment, and racial discrimination, among others.
13. During the 3rd UPR cycle, the Government of Indonesia received a total of 234 recommendations. The Indonesian Government supported the recommendation 139.147 to raise awareness of refugees and asylum seekers among host communities¹⁰ and noted the recommendation 141.55 to consider the ratification of the 1951 Refugee Convention and its 1967 Protocol.¹¹
14. A majority of the refugees and asylum seekers currently in Indonesia arrived prior to 2014, with a notable exception of Rohingya refugees arriving on boat in recent years. However, resettlement opportunities provided by countries offering resettlement have continued to decrease. In 2019, 663 refugees (4.8% of the total refugee population) departed to Australia, Canada, and the United States, while only 403 and 457 refugees departed to resettlement countries in 2020 and 2021 respectively.¹²
15. Current resettlement process in Indonesia is managed by UNHCR Indonesia who submits resettlement applications to third countries that had agreed to admit refugees from

⁷ Indonesia, *Law No. 37 of 1999 on Foreign Relations*. Official English version is unavailable. Bahasa Indonesia version: <https://peraturan.bpk.go.id/Home/Details/45358/uu-no-37-tahun-1999>

⁸ Indonesia, *Presidential Regulation No. 125 of 2016 on The Handling of Foreign Refugees*. Official English version is unavailable. Bahasa Indonesia version: <https://peraturan.bpk.go.id/Home/Details/41029/perpres-no-125-tahun-2016>

⁹ Cabinet Secretariat of the Republic of Indonesia, *President Jokowi Signs Presidential Regulation on Handling of Refugees from Abroad*, 2017.

<https://setkab.go.id/en/president-jokowi-signs-presidential-regulation-on-handling-of-refugees-from-abroad/>

¹⁰ A/HRC/36/7, recommendation 139.147 (Colombia).

¹¹ A/HRC/36/7/Add.1, recommendation 141.55 (Ireland).

¹² UNHCR Indonesia, *UNHCR Indonesia Fact Sheet December 2021*, 2021.

Indonesia.¹³ Under the current scheme, the Government of Indonesia has minimal to no involvement in the efforts to broaden the quota or accelerate the resettlement process. The lack of effective efforts of the Government of Indonesia to expand quotas of and expedite the resettlement process had contributed to the prolonged displacement of and adverse impacts experienced by refugees in Indonesia as the Presidential Regulation 125/2016 does not regulate sufficient human rights protection.

16. In several instances, the Government of Indonesia has also breached non-refoulement principles against people who seek asylum in Indonesia. From 2021-2022, SUAKA has documented two number of cases of refoulement conducted by the state, one was related to a refugee from Pakistan and the other from Somalia.¹⁴ The two cases were identifiable due to them being reported to SUAKA and there might be other unidentifiable cases.
17. In January 2022, immigration authorities in Indonesia deported a 35-year-old pregnant refugee back to Somalia, risking her life as she was fleeing domestic violence. The deportation of the pregnant refugee was also in violation of Article 14 of the Universal Declaration of Human Rights and Article 11 of the International Covenant on Economic, Social, and Cultural Rights (“ICESCR”).¹⁵ The deportation also breached Indonesia’s commitment to the recommendations 139.103 (Bangladesh),¹⁶ 139.14 (Djibouti),¹⁷ 139.111 (Pakistan),¹⁸ and 139.120 (Oman).¹⁹

Impacts of the Absence of Durable Solutions

18. Due to the limited resettlement quota which has continued to reduce over the years, most refugees and asylum seekers in Indonesia have been living in limbo for almost 10 years or more. Despite the national regulation on refugees, Indonesia offers very limited rights to refugees on its territory. Refugees in Indonesia suffer from discrimination and the lack of access to primary and higher education, healthcare, and livelihood opportunities, among others.
19. Consequently, the prolonged wait and the deprivation of basic rights experienced by refugees and asylum seekers lead to significant physical and mental health issues, including anxiety, depression, and even suicide. In the last 3 years, at least 13 refugees have committed suicide²⁰ and the number of suicide attempts continue to increase. Refugees and asylum seekers across Indonesia have taken to the streets for peaceful demonstrations, some even taking desperate measures such as sewing their lips and setting themselves on

¹³ UNHCR Indonesia, *Resettlement*. <https://help.unhcr.org/indonesia/resettlement-other/resettlement/#:~:text=UNHCR%20identifies%20refugees%20for%20resettlement,and%20will%20be%20acted%20accordingly>.

¹⁴ This information is based on SUAKA’s case database.

¹⁵ Indonesia Expat, *Amnesty International: Pregnant Refugee from Somaliland Deported at Soekarno Hatta Airport*, 2022. <https://indonesiaexpat.id/news/amnesty-international-pregnant-somali-refugee-deported-at-soekarno-hatta-airport/>

¹⁶ A/HRC/36/7, recommendation No. 139.103 (Bangladesh).

¹⁷ A/HRC/36/7, recommendation No. 139.14 (Djibouti).

¹⁸ A/HRC/36/7, recommendation No. 139.111 (Pakistan).

¹⁹ A/HRC/36/7, recommendation No. 139.120 (Oman).

²⁰ Sitarah Mohammadi and Sajjad Askary, *Refugees live in destitution in Indonesia: Years of limbo and suffering lead refugees to protests for many weeks now for resettlement*, RCOA, 2022. <https://reliefweb.int/report/indonesia/refugees-live-destitution-indonesia-years-limbo-and-suffering-lead-refugees>

fire, in the plea to countries offering resettlement to increase resettlement quota and accelerate the resettlement processes.²¹

20. The peaceful protests that refugees and asylum seekers have carried out across Indonesia have led to the local authorities and law enforcement agencies to take violent actions against the peaceful demonstrators that also include women and young girls. This further perpetuates the forms of gender-based violence that refugee women and girls are subjected to while in transit, in addition to domestic abuse, sexual harassment, child marriage, and human trafficking.²²
21. Children also remain a particularly vulnerable group due to the absence of durable, long-term solutions. With a lack of access to local schools, refugee children are unable to enjoy formal education and are considerably behind their peers.²³ Furthermore, many children and unaccompanied minors have participated in or been brought to the demonstrations held by the refugee community, which heightens their vulnerability to the acts of violence carried out by the local authorities.
22. Indonesia considers itself to be a transit country as the Director of Human Rights and Humanitarian Affairs of the Ministry of Foreign Affairs had stated it in one of the interviews by the media.²⁴ However, it is clear that refugees in Indonesia are no longer in transit for a short period of time. It is also important to consider that most refugees in Indonesia are part of the persecuted minority groups in their home countries, making it impossible for them to seek the option of voluntary repatriation under the current deteriorating political situation.²⁵ The Government of Indonesia needs to step up and take a proactive stance in implementing and exploring long-term, durable solutions for refugees and asylum seekers in the country.

Recommendations

- a. The Government of Indonesia should improve the protection and fulfillment of basic rights for refugees and asylum seekers in Indonesia, including through implementation of core human rights treaties acceded by Indonesia. The Government should also consider the ratification of the 1951 Refugee Convention, to better protect the rights of refugees in the country;
- b. The Government of Indonesia should consider to review and strengthen the Presidential Regulation Number 125 of 2016 with human rights perspectives to

²¹ Aisyah Llewellyn and Eko Rusdianto. *Afghan refugees in 'limbo' in Indonesia sew their mouths shut in protest*" South China Morning Post, 2021. <https://www.scmp.com/week-asia/people/article/3159617/afghan-refugees-limbo-indonesia-sew-their-mouths-shut-protest>

²² Angesti Citra Asih, *Unprotected, Women Refugees Vulnerable to Sexual and Gender-based Violence*. Magdalene, 2018. <https://magdalene.co/story/unprotected-women-refugees-vulnerable-to-sexual-and-gender-based-violence-unhcr>

²³ JN Joniad, *A lost generation of refugee children in Indonesia*. Overland, 2020. <https://overland.org.au/2020/05/a-lost-generation-of-refugee-children-in-indonesia/>

²⁴ Farah Fuadona, *Dilema Indonesia sebagai negara transit para pengungsi*, 2018. <https://www.merdeka.com/dunia/dilema-indonesia-sebagai-negara-transit-para-pengungsi.html>

²⁵ Refugee Council of Australia. *Why Hazaras are in danger in Afghanistan: Expert opinion*, 2021. <https://www.refugeecouncil.org.au/hazaras-opinion/>; Asif Muztaba Hassan. *Rohingya Repatriation Unlikely if It's Business as Usual in Global Politics*, The Diplomat, 2021. <https://thediplomat.com/2021/07/rohingya-repatriation-unlikely-if-its-business-as-usual-in-global-politics/>

improve stronger coordination between national and local government institutions in protecting refugees;

- c. The Government of Indonesia has to implement and respect the *non-refoulement* principle to avoid forced repatriation which will subject vulnerable refugees and asylum seekers to life-threatening danger and persecution in their countries of origin;
- d. The Government of Indonesia should strengthen its diplomacy to traditional resettlement countries to increase resettlement quotas and accelerate resettlement process;
- e. The Government of Indonesia should explore long-term durable solutions including resettlement pathways with other Parties to the 1951 Refugee Convention, particularly in Southeast Asian and Asia Pacific regions.

Rights to the enjoyment of the highest standard of health

Access to health service and treatment

23. Health is one of the basic human rights that has to be provided by the state who has ratified the ICESCR, including Indonesia. In parallel to its responsibilities under said convention, the right to health is also protected under Indonesian Constitution (Article 28 (a) and (h))²⁶ which guarantee the rights to obtain health services, live in a good and healthy environment, and earn prosperous lives for everyone. There are also several national laws, namely, Law No. 39 of 1999 on Human Rights and Law No. 36 of 2009 on Health,²⁷ stipulating that every activity that seeks to achieve the highest standard of health is made on the basis of non-discriminative principle. In addition, Law No. 25 of 2009 on Public Service stipulates that it's the state's obligation to fulfill the rights and needs in public service enjoyment of citizens and residents living in Indonesia.²⁸
24. Indonesia was given recommendations during the 3rd cycle of UPR to take further measures of its health access coverage throughout the country, as is followed to ensure Sustainable Development goals for this particular right. The recommendations were not limited to the Indonesian citizen, but also to each individual who lives within Indonesian territory regardless of its nationality. Therefore, refugees and asylum seekers' right to health should be protected.
25. There were recommendations from Norway (139.80)²⁹ and Democratic People's Republic of Korea (139.89),³⁰ which Indonesia agreed to support in securing the right to health for each individual living in Indonesia. Throughout the emergence of pandemic COVID-19, the right to health is even more demanded, yet remains fragile in its accessibility coverage.
26. The lack of the Government of Indonesia's seriousness in handling this issue can be seen as the local community in Jakarta urged to help refugees in accessing health services,

²⁶ Indonesia, *Undang-Undang Dasar (Indonesian Constitution)*, Article 28 (a) and (h).

²⁷ Indonesia, *Law No. 36 of 2009 on Health*.

http://regalkes.kemkes.go.id/informasi_alkes/Regulasi%20Lisensi%20Produk.pdf

²⁸ Indonesia, *Law No. 25 of 2009 on Public Services*. Official English version is unavailable. Bahasa Indonesia version: <https://jdih.go.id/files/4/2009uu025.pdf>

²⁹ A/HRC/36/7, recommendation 139.89 (Norway).

³⁰ A/HRC/36/7, recommendation 139.89 (Democratic People's Republic of Korea).

including paying for the treatments, instead of the Government.³¹ International organizations, like IOM, have put efforts to overcome the situation. In 2013, IOM and Makassar local government tried to provide help in mental and physical matters for the refugees.³² However, these works aren't sufficient without the Government's commitment and consistency in taking these matters to its priority by establishing an effective government-led refugee rights protection policy.

27. Refugees' access to health services in Indonesia has been poorly addressed as they struggle to afford it.³³ They cannot access free primary healthcare as they are not a part of Indonesian government-subsidized health insurance (BPJS).³⁴ Although some refugees receive medical assistance or support from international organizations such as UNHCR and IOM, their resources are limited and prioritized for primary healthcare. Indonesian non-governmental organizations such as Dompot Dhuafa also established a hospital to provide free healthcare services for refugees.³⁵ The right to health for refugees is currently being provided by non-governmental organizations with their limited amount of resources, however, the Government of Indonesia has continued to rely on them rather than provide targeted support for refugees as a part of their healthcare program prioritization.
28. Refugees also experience various challenges to access healthcare in Indonesia. One of the challenges is communicating with local health service providers who often are not able to communicate with refugees as both of them do not know each other's languages. There are often no interpretation services provided by health facilities in Indonesia, thus, further block the access for refugees and asylum seekers. As there are no efforts made to improve the services for refugees by the state, this situation has led to the necessity of direct assistance of many refugees to be accompanied by local organizations in accessing healthcare services.

Access to COVID-19 vaccine

29. Public health in Indonesia has been in a crisis state during the emergence of COVID-19 cases. This situation has created immense challenges for refugees and asylum seekers to be safe from the virus. Under the Regulation of the Minister of Health of the Republic of Indonesia No. 19 of 2021, Indonesia did not recognize refugees and asylum seekers as a part of the affected population. As the vaccination program has been rolled out for Indonesian citizens since early 2021, they have been marginalized under this regulation. Access to COVID-19 vaccination demands Indonesian national identity card (KTP) for its

³¹ Faiz Iqbal Maulid, *Pengungsi Afghanistan di Jakpus Dirikan Tenda, Ketua RW: Bukan dari Kami*, 2021.

<https://news.detik.com/berita/d-5704267/pengungsi-afghanistan-di-jakpus-dirikan-tenda-ketua-rw-bukan-dari-kami>

³² Cresensia Liany Prastica Mallisa, *Kerjasama Pemerintah Indonesia dengan International Organization for Migration (IOM) dalam Menangani Imigran Gelap Asal Afghanistan di Sulawesi Selatan*, 2018, page 66 (A).

³³ Mixed Migration Center, *A Transit Country No More: Refugees and Asylum Seekers in Indonesia*, 2021, page 32.

³⁴ Antara, *UNHCR optimistic of refugees in Indonesia having health insurance*, 2021.

<https://en.antaranews.com/news/195613/unhcr-optimistic-of-refugees-in-indonesia-having-health-insurance>

³⁵ Dompot Dhuafa, *UNHCR Kunjungi Rumah Sakit dan Sekolah Gratis Dompot Dhuafa*, 2016.

<https://www.dompetdhuafa.org/unhcr-kunjungi-rumah-sakit-dan-sekolah-gratis-dompot-dhuafa/>

requirement, whereas identity cards that have been issued by UNHCR to refugees and asylum seekers are denied.³⁶

30. Later on, 31st August 2021, WHO released COVID-19 immunization in refugees and migrants: principles and key considerations,³⁷ which was followed by the Government of Indonesia through the enactment of the Decree Of The Minister Of Health Of The Republic Of Indonesia Number HK.01.07/MENKES/6424/2021. By then, the regulation finally acknowledges refugees and asylum seekers as the beneficiaries of this regulation, covering the loop holes on the previous mentioned regulation above. However, it is only for those who own UNHCR cards. Thus, the regulation excludes those who do not own UNHCR cards, such as the asylum seekers whose cases are closed by the UNHCR.
31. In addition to its limitations, refugees and asylum seekers could only access their rights, if 70% of them had received the first dose of vaccination.³⁸ Not only the local quota concern should be fulfilled first, vaccine certification through the Indonesian national database system on application “PeduliLindungi” discriminates against refugees and asylum seekers as there is this limitation between the standard digit number of UNHCR cards that doesn’t match with common Indonesian national identity cards.³⁹ This application is an obligation for individuals who wish to access public space, eg. transportation public entrance, since it’s recorded the vaccine certificate of its users. Therefore, many refugees could not get their vaccine certification using the mentioned application, thus, are not able to access these facilities.
32. By the end of 2021, among more than 13.000 targeted persons, only around 7.000 refugees have been vaccinated according to UNHCR under the support of many stakeholders:⁴⁰ University of Indonesia Hospital (RSUI), Jakarta Provincial Government, Indonesia Chambers of Commerce (KADIN) and Cargill Indonesia.⁴¹ However, these numbers are still leaving about 6.000 affected individuals in question. These numbers are proof that the Indonesian government hasn’t demonstrated their commitment on the recommendation from Columbia (139.147) on the 3rd cycle of UPR to promote initiatives to raise awareness of the rights of refugees and asylum seekers.

Mental health issue overview

33. The prolonged wait and uncertainty experienced by refugees in Indonesia have taken a toll on refugees and asylum seekers mental health. Although UNHCR and its partner organization, Church World Service (CWS), provide a very limited psychological consultation for some refugees and asylum seekers, the requests for psychological

³⁶ BBC Indonesia, *Pengungsi asing di Indonesia selama pandemi: ‘Mereka menolak saya dan mengatakan vaksin hanya untuk WNI*, 2021. <https://www.bbc.com/indonesia/indonesia-58068808>

³⁷ WHO, *COVID-19 immunization in refugees and migrants: principles and key considerations: interim guidance, 31 August 2021*, 2021. <https://www.who.int/publications/i/item/covid-19-immunization-in-refugees-and-migrants-principles-and-key-considerations-interim-guidance-31-august-2021>

³⁸ Tirto.id, *Apa Kabar Vaksinasi COVID-19 bagi Pengungsi & Migran di Indonesia?*, 2021. <https://tirto.id/apa-kabar-vaksinasi-covid-19-bagi-pengungsi-migran-di-indonesia-glTH>

³⁹ VOA Indonesia, *Cegah Perebakan COVID-19, Indonesia Vaksinasi Pengungsi Asing di Beberapa Daerah*, 2021. <https://www.voaindonesia.com/a/cegah-perebakan-covid-19-indonesia-vaksinasi-pengungsi-asing-di-beberapa-daerah/6267738.html>

⁴⁰ UNHCR Indonesia, *UNHCR Indonesia Fact Sheet December 2021*, 2021.

⁴¹ VOA Indonesia, *loc. cit.*

consultation are increasing remotely and refugees and asylum seekers have to wait for years to get their turn.⁴²

34. Refugees and asylum seekers highly require psychological consultation as most of them are suffering from mental disorders due to living in limbo for more than a decade.⁴³ The mental health crisis among women is increasing while the SGBV cases increase as well. Limitations and losing the future lead refugees and asylum seekers to be surrounded by negativity which unfortunately ends sadly.⁴⁴
35. COVID-19 has exacerbated mental health problems and made it harder for refugees to use coping strategies. The COVID-19 pandemic is causing more stress and increasing uncertainty around refugees and asylum seekers resettlement processes.⁴⁵ Lockdowns have isolated refugees from their social networks and created new worries, resulting in an uptick in requests for psychological consultation. At the same time, it has been hard for UNHCR and CWS to maintain mental health programs during the pandemic due to the suspension of many in-person programs.⁴⁶
36. The pandemic has limited the opportunities for refugees to be engaged in self-reliance programmes such as vocational training and livelihood activities.⁴⁷ With the high stress and depression, refugees and asylum seekers find their lives in Indonesia so unbearable and their prospects so bleak that lead them to make a decision to take their own lives. At least thirteen cases of suicides happened among refugees and asylum seekers since 2014⁴⁸ and the main reasons are:⁴⁹
 - Limitation of resettlement to the third country
 - Limitation of access to the medical services
 - Limitation of education
 - Limitation of access to livelihood
 - Limitation of legal documentation and status
 - Limitation of integration and understanding with and from local communities
 - Limitation of direct cash assistance
 - Increasing of the violence against women and children
 - Covid-19 condition and its huge negative affection
37. Let alone the CSOs and other international organizations carrying out these initiatives with their limited resources, the Indonesian Government hasn't done anything concrete towards

⁴² Mixed Migration Center, *op. cit.*, page 35.

⁴³ *Ibid.*

⁴⁴ Mixed Migration Center, *op. cit.*, page 36.

⁴⁵ Manotar Tampubolon et. al, *Covid-19 and Mental Health Policy in Indonesia*, ASEAN Journal of Psychiatry, Vol. 22(S1) October-November, 2021; 1-12, 2021. <https://www.aseanjournalofpsychiatry.org/articles/covid19-and-mental-health-policy-in-indonesia.pdf>

⁴⁶ EKONID, COVID-19 developments in Indonesia, 2022. <https://indonesien.ahk.de/en/infocenter/news/news-details/covid-19-developments-in-indonesia>

⁴⁷ UNHCR Indonesia, *Press Release – UNHCR: Refugees in Indonesia need greater support and solutions*, 2021. <https://www.unhcr.org/id/en/13519-press-release-unhcr-refugees-in-indonesia-need-greater-support-and-solutions.html>

⁴⁸ Antonia Timmerman, *In Indonesia, desperation grows for refugees trapped in limbo for years*, 2021. <https://www.thenewhumanitarian.org/news-feature/2021/3/22/in-indonesia-desperation-grows-for-refugees-trapped-in-limbo-for-years>

⁴⁹ Lived experiences reported from a Refugee Representative who has been living in Indonesia for 6 years.

recommendation 139.147 given by Columbia in promoting initiatives in raising awareness among host communities on the rights of refugees, asylum seekers.

Recommendations

- a. The Government of Indonesia should ensure the protection of the right to health of refugees and asylum seekers in Indonesia as a manifestation of their commitment to various human rights core treaties they have acceded to and national legislations.
- b. The Government of Indonesia should consider providing government subsidized health insurance for asylum seekers and refugees to access healthcare for their health condition in Indonesia.
- c. The Government of Indonesia should consider providing psychological consultation for all refugees and asylum seekers in collaboration with universities, hospitals and UNHCR Indonesia.
- d. The Government of Indonesia should raise awareness on medical and mental health among the refugees and asylum seekers communities to prevent suicides.
- e. The Government of Indonesia should improve the accessibility to health assistance by improving interpretation services in health facilities as most of the refugees and asylum seekers are not able to speak Bahasa Indonesia or English.
- f. The Government of Indonesia should explore ways to address the root problems of refugees and asylum seekers' health condition, which is the lack of durable solutions, including slow resettlement process and insufficient human rights protection while in Indonesia;
- g. The Government of Indonesia should consider involving refugees and asylum seekers who have a medical background to assist the refugees and asylum seekers in the Indonesian institution or hospitals.
- h. The Government of Indonesia should accelerate the covid-19 vaccine to all refugees and asylum seekers in Indonesia and provide the certification to the Indonesian health system.

Right to Education

38. Indonesia is host to 3,498 refugee children, 862 of whom were enrolled in accredited national schools.⁵⁰
39. To fulfill the obligations and commitments of human rights, The Indonesian Government has accepted recommendations under the 3rd UPR cycle. 5 (five) recommendations on Human Rights Education and 8 (eight) recommendations on Right to Education.⁵¹
40. Right to education are protected under two legal frameworks applied in Indonesia, both national and international legal frameworks. The right to education is guaranteed under several human rights conventions ratified by the Government of Indonesia which are stipulated under Article 13 of the ICESCR and Article 28 of the Convention on the Rights of the Child ("CRC). Both of these conventions have obliged States to ensure full availability of primary education which are very important for children. These Conventions also used the non-discrimination application which is ensured in Article 2, thus including refugees and asylum seekers.

⁵⁰ UNHCR Indonesia, *Monthly Statistical Report*, February 2022.

⁵¹ These are the recommendations received by the Indonesian Government in the previous cycle of UPR Submission <https://www.ohchr.org/en/hrbodies/upr/pages/idindex.aspx>, accessed on 18 February 2022.

41. Not only the international legal scheme, Indonesia has regulated protection on the rights of education in its national laws under Article 28 C para. 1 of the Indonesian National Constitution of 1945, Article 12, and Article 60 of the Law No. 30 of 1999 on Human Rights. The latter which protects the fulfillment of the right to education of children is then connected to the Article 9 of the Law No. 23 of 2002 on Child Protection. Similar to the provision stated in the international legal framework, all of the national laws protecting the right to education also used the non-discriminatory application of human rights as it stipulates through the wordings used in each provision which is “every person”.
42. Apart from these national legal frameworks mentioned above, in July 2019 Indonesian Ministry of Education and Culture issued Letter No. 75253/A.A4/HK/2019 to Provincial Governors, Mayors, Regents and Heads of Education Offices (“Circular Letter”). This Circular Letter is one of the fundamental legal basis for the fulfillment of refugees’ right to education. Through this Circular Letter, there are certain important points that are crucial on the implementation of education for child refugees.
43. First, it is stated that there will be a Certificate as an acknowledgement for child refugees after completing their studies. Although, this certificate is not equal to a diploma. Second, there are certain documents that need to be fulfilled in order to admit child refugees as students. These documents are; UNHCR ID Card, recommendation from local immigration detention center, guarantee and commitment letter to support education costs from institution that sponsors the refugees, and recommendation letter from the sponsoring institution. The letter stipulated that the participation of school-age refugee children in education in the regions must not burden the State Budget (APBN) or the Regional Revenue and Expenditure Budget (APBD). By obligating refugee parents and/or guardians to independently fund their children’s schooling, the regulation significantly strains their finances. The interdependency between the two rights shows that the non-fulfilment of one right (access to work) affects access to other rights (education).⁵²
44. The passing of the Circular Letter was one of the positive steps taken by the Government of Indonesia. However, there are challenges. First, the Circular Letter has not been fully implemented nor standardized across local governments in Indonesia. Second, there exist administrative barriers that hold back child refugees from obtaining administrative requirements to enroll in the educational system. For example, the National Student Number/*Nomor Induk Siswa Nasional*. Without having any administrative documents such as birth certificates which act as a proof of identities, child refugees have been blocked to have a National Student Number. However, this issue is expected to be handled better since the Indonesian Government has passed the Presidential Decree No. 96 of 2018 specially in the Article 77, which allow access for undocumented refugees to obtain administrative certificate passed by the Population Service and Civil Registry.
45. The other administrative reliefs that are also absent from the refugees is the provision of the Circular Letter which stated the refugee will only obtain an acknowledgement certificate instead of a diploma. Lastly, while there are best examples where refugees finally can attend formal schools, language barriers still exist as one of the primary challenges between refugees and locals.⁵³ These language barriers are identified as one of

⁵² Ministry of Education and Culture Circular Letter No. 75253/A.A4/HK/2019, *Education for Refugees’ Children*, 10 July 2019.

⁵³ BBC Indonesia, *Anak Pengungsi dari Luar Negeri Masuk Sekolah Formal di Indonesia: 'Di Dunia Ini Setiap Orang Berhak Mendapat Pendidikan*, 2021. <https://www.bbc.com/indonesia/indonesia-59305010>

the reasons for refugees to decide to not attend school in Indonesia since they are not confident to speak with Indonesian language. As recommended in the previous cycle of UPR Submission, through this identified challenges, the Government of Indonesia still has not yet complied with the recommendation accepted regarding the provision of an universal educational system⁵⁴ and the full enrollment of children in the education system in Indonesia.⁵⁵

46. Apart from the challenges identified regarding this matter, there also exist best practices implemented by the civil societies through the civil society organisation⁵⁶ and even the refugee communities itself.⁵⁷ The best practices identified are the increasing number of independent educational activities made by these non-governmental stakeholders to increase the educational level of refugees in Indonesia both in formal or informal education materials. These educational activities were varied by both preparatory and informal education, thus, very important to fill the gap left as a result of lack of access to education for refugees in Indonesia provided by the Government of Indonesia.
47. In December 2021, only around 862 refugee children are enrolled in accredited public schools, while 1.600 school age children are yet to attend formal school and 1.000 refugee children receive education provided by international organizations and Refugee Led Organizations (RLOs).⁵⁸ All non-governmental stakeholders are struggling to provide education access to address the inadequate protection given by the Indonesian government on the right to education to address the inadequate protection given by the Indonesian Government on the right to education for refugees, including during the COVID-19 pandemic. One of the ways used so that refugee children can continue to receive education is by using a digital platform, but there are still problems because not all refugee children have adequate facilities to participate through digital platforms.⁵⁹

Recommendations

- a. The Government of Indonesia should ensure the right to education for refugee children in Indonesia by making a national level regulation to overcome educational barriers, including, administrative barriers for refugee children to access education in Indonesia.

⁵⁴ A/HRC/36/7, recommendation No. 139.94 (State of Palestine).

⁵⁵ A/HRC/36/7, recommendation No. 139.49 (Democratic People's Republic of Korea) & recommendation No. 139.96 (Bangladesh).

⁵⁶ Dompot Dhuafa, a non-governmental organization, has initiated "School for Refugees" aimed to prepare child refugees with basic education materials in order to make them ready to attend formal education in Indonesia. See further information in [School for Refugees, Sarana Tebar Manfaat Bagi Pengungsi Rohingya - Dompot Dhuafa](#). Jesuit Refugee Services Indonesia has initiated the JRS Learning Center. See in [Pendidikan Untuk Masa Depan: Sebuah Harapan Pencari Suaka dan Pengungsi di Cisarua | JRS INDONESIA](#).

⁵⁷ Cisarua Learning Center is one of the best practices that came from the initiatives of refugee communities to provide more access to education. See for further information in [Cisarua Refugee Learning Centre \(CRLC\) — Cisarua Learning](#).

⁵⁸ UNHCR Indonesia, *UNHCR Indonesia Fact Sheet December 2021*, 2021.

⁵⁹ UNHCR Asia Pacific, *Refugee Connected Education Challenge*. <https://www.unhcr.org/refugee-connected-education-challenge>.

- b. The Government of Indonesia should consider updating the curriculum used in the national system of education into a more inclusive and based on the wider human rights approach in order to give room for refugees acceptance in local societies.
- c. The Government of Indonesia should conduct capacity building on Bahasa Indonesia language for the refugee community to resolve the language barriers identified in the educational dynamics of refugees in school.
- d. The Government of Indonesia should provide recognition for refugee's education by providing a diploma according to the education system in Indonesia, including but not limited to, primary education, junior secondary education, senior vocational education, senior secondary education, diploma or university recognized by the Indonesian Ministry of Education and Culture.
- e. The Government of Indonesia should actively promote and guarantee all children's rights, including refugee children, to education in Indonesia. This includes increasing awareness within local governments, government agencies or institutions about the importance of fulfilling the right to education of refugee children, as well as awareness and for refugees themselves to continue the education of their children.

Livelihood

- 48. Refugees are prohibited from working or carrying out income generating activities during their stay in Indonesia, based on the Statement Letter attached to the Regulation of Director General of Immigration No. IMI-0352.gr.02.07 (2016) on the Handling of Illegal Migrants Claiming to be Asylum-seeker or Refugee.⁶⁰ This regulation prohibits refugees to be self reliant and meet their basic needs independently and with respect (dignified).⁶¹
- 49. The Regulation of Director General of Immigration above is inconsistent with other national legislations, including the Article 28(e) of Indonesian Constitution and Article 38 of Law on Human Rights. In addition, Indonesia is a party to other international human rights instruments such as ICESCR and ICERD that protect refugees' right to work. Article 6 of the ICESCR stipulates the protections for the right to work and denotes the obligations states have to ensure enjoyment of the right.⁶² Therefore, the legislation has to be revoked to not breach the legal hierarchy principles, ensure rule of law, comply with international human rights standards, and provide protection for refugees to be self-reliant.
- 50. In accessing the right to work, refugees are required to follow the rules regarding employment for foreign nationals, such as having a KITAS/KITAP (temporary/permanent

⁶⁰ Indonesia, *The Regulation of the Director General of Immigration No. IMI-0352.gr.02.07 Year 2016*, 2016. Available on SUAKA's website: <https://suakaindonesia.files.wordpress.com/2019/02/perdirjenim-2016-penanganan-imigran-illegal-sebagai-pengungsi.pdf>

⁶¹ The UN Committee on Economic, Social and Cultural Rights (CESCR)'s General Comment 18 acknowledges that work is both 'essential for realizing other human rights' and 'an inseparable and inherent part of human dignity'. CESCR, 'General Comment No 18: The Right to Work, Article 6 of ICESCR' (6 February 2006) UN Doc E/C.12/GC/18.

⁶² United Nations, *International Covenant on Economic, Social, and Cultural Rights*, Article 6 (1).

living permit) or working visa (working visa), which is impossible for someone who has refugee status in Indonesia.^{63 64}

51. Refugee in Indonesia can be classified into several categories based on their ability to meet their basic needs:
 - a. Refugee under the care of International Organization of Migration
 - As of 28 Feb 2022, the programme covers 7.303 individuals who receive monthly stipend, basic accommodation and basic health support.⁶⁵
 - b. Refugee not under the care of IOM
 - Refugees who receive monthly cash based assistance from NGOs. Their monthly financial support is used to meet their various expenses, such as food, rent and health needs.
 - Independently living refugees who are not receiving any support from any organizations. This group includes refugees that still have savings, receiving support from relatives abroad, or the one who lives in destitution situations.
52. The classification above shows that refugees in Indonesia do not receive any direct support from the Government in order to meet the standard of adequate living. There are around 50% of the refugee population in Indonesia who are not receiving any support from any organization, thus increasing their vulnerability to continue living without being afforded the right to work. In the most vulnerable cases, UNHCR Indonesia provides a monthly subsistence allowance for 1.243 refugees with a limited amount to cover for their basic necessities.⁶⁶
53. Indonesia has pledged to the Global Refugee Forum to design a refugee empowerment program which has yet to take form of realization.⁶⁷ The pledge is in line with the spirit of ICESCR article 6 (2) which further explains the obligations states must ensure for the enjoyment of the right.⁶⁸
54. The pandemic also adds to the suffering of the refugees. The absence of the right to work makes it difficult for the refugees to fulfil their basic necessities. They initially relied on remittances from relatives or friends outside Indonesia, but this source of income did not last long.⁶⁹

⁶³ Indonesia, *Government Regulation No. 48 of 2021 on Immigration*, 2021. Official English version is unavailable. Bahasa Indonesia version: https://jdih.setkab.go.id/PUUdoc/176341/PP_Nomor_48_Tahun_2021.pdf

⁶⁴ Based on the Government Regulation Number 34 of 2021 concerning Utilization of Foreign Workers (“GR 34/2021”) stipulates on article 1 that only a foreign citizen holding a visa with the intention of working in the territory of Indonesia is permitted to work in Indonesia. The GR is one of implementation regulations to Law No. 11 of 2020 (“Job Creation Law”).

⁶⁵ This information is distributed through IOM's official social media account.

⁶⁶ UNHCR Indonesia, *UNHCR Indonesia Fact Sheet December 2021*, 2021.

⁶⁷ Indonesia, *Statement by Hon. Ms. Meutya Hafid Chair of the Foreign Affairs and Defence Committee of the Indonesian House of Representatives for the First Global Refugee Forum 17-18 December, Geneva, Switzerland*, 2019. <https://mission-indonesia.org/2019/12/18/statement-by-hon-ms-meutya-hafid-chair-of-the-foreign-affairs-and-defence-committee-of-the-indonesian-house-of-representatives-for-the-first-global-refugee-forum-17-18-december-2019-geneve-switze/>

⁶⁸ United Nations, *International Covenant on Economic, Social, and Cultural Rights*, Article 6 (2).

⁶⁹ Tempo, *Trapped in Intangible Bars*, 2022. <https://interaktif.tempo.co/proyek/pengungsi-afghan-di-indonesia/index.html>

55. In the long term, it creates dependence on social assistance or donations from local communities or civil society organizations, international organizations, and UN agencies which are increasingly difficult to obtain, so that destitution is an inevitable condition. This has been seen in the case of the self-surrender of hundreds of refugees to the Kalideres Immigration Detention Center, Jakarta, in mid 2017.⁷⁰ This condition was triggered by the inability of the refugees to meet their basic needs, so they chose to be held in immigration detention, in order to access shelter and food.
56. Research conducted by civil society has shown that allowing access for refugees to work could be beneficial for the host countries as the refugees will be able to be self-reliant and contribute to the labour market in Indonesia.⁷¹ Therefore, the Government of Indonesia should seriously consider allowing refugees to work and provide them with sufficient protection to avoid exploitation due to the inexistence of legal protection.

Recommendations

- a. The Government of Indonesia should align the right to livelihood with economic inclusion efforts under their Global Compact on Refugees (GCR) commitment which highlighted the need to mobilize local and private actors to adopt a whole society approach to strengthen refugees' independence to reduce pressure on Indonesia as a host country.
- b. The Government of Indonesia should consider to review and amend Presidential Regulation 125/2016 using data and existing research to include protection of basic human rights, including livelihood opportunities.
- c. The Government of Indonesia should consider revoking the Regulation of Director General of Immigration No. IMI-0352.gr.02.07 (2016) on the Handling of Illegal Migrants Claiming to be Asylum-seeker or Refugee as it is inconsistent with other national legislations and international human rights standards;
- d. The Government of Indonesia should improve the access of livelihood of refugees and provide economic incentive and capacity building for refugees in Indonesia as a part of community empowerment through.⁷²
 - i. Temporary Employment Framework:
 1. Apprenticeship opportunities;
 2. Individually-run business opportunities;
 3. Training and vocational improvement programs;
 - ii. Temporary Education Framework:
 1. Supporting non-governmental and International Organizations in providing education access for refugees;

⁷⁰ Antje Missbach, et. al, *Stalemate: Refugees in Indonesia — Presidential Regulation No 125 of 2016 - Policy Paper*, 2018. <https://law.unimelb.edu.au/centres/cilis/research/publications/cilis-policy-papers/stalemate-refugees-in-indonesia-presidential-regulation-no-125-of-2016>

⁷¹ Yunizar Adiputera, et. al., *Addressing Challenges and Identifying Opportunities for Refugee Access to Employment in Indonesia*, 2018, p. 3-5.

⁷² Sandya Institute, *Research Paper: Unlocking the Economic Potentials of Indonesia's Refugee Community: A Survey on Labour Characteristics*, 2019.

2. Supporting learning centres organized by refugees to be given standardization and increased cooperation with relevant government agencies;
 3. Conduct language and General Education Development (GED) training;
- iii. Government-Led Action:
1. Provide access for refugees to formally enroll into institutions of higher-learning.