

KNOW YOUR RIGHTS



**A handbook for Refugees and
Asylum Seekers in Indonesia**



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Sandya Institute

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(in no particular order)

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Kementerian Pendidikan dan Kebudayaan (Ministry of Education and Culture)

Kementerian Hukum dan Hak Asasi Manusia (Ministry of Law and Human Rights)

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Kementerian Sosial (Ministry of Social Affairs)

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United Nations High Commissioner for Refugees (UNHCR)
Sandya Institute
SUAKA
Lembaga Bantuan Hukum Jakarta
Yayasan Lembaga Bantuan Hukum Indonesia
Jesuit Refugee Service Indonesia

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FOREWORD

SUAKA

The world is now facing the worst displaced people since World War II. Around 68.5 million people were forcibly displaced in the result of the conflict, where 28.5 million of them are seeking asylum or refuge. Around 0.04% of the total world refugees and asylum seekers population are staying in Indonesia.

Indonesia has been hosting refugee from 1979 to 1996, where Indochina refugees left Vietnam and were accommodated in Galang Island Riau-Indonesia. It has shown Indonesia's commitment to the universally recognized principles of non-refoulement. In the 2000s, there was a new wave of refugees leaving Iraq and Afghanistan. Since then, Indonesia has become a transit country for refugees from various countries bound to countries of resettlement.

In the past few years, countries of resettlement were relatively open for refugees staying in Indonesia. Australia was the primary country of resettlement who took a significant amount of refugees from Indonesia. It was in July 2014 that Australia finally closed its door for resettlement. However, the United States of America somehow replaced Australia in terms of refugee resettlement from Indonesia. In that period of time, refugees were given a definite durable solution until the new elected U.S. administration under Donald Trump limited the resettlement number. Since then, the majority of refugees in Indonesia need to be prepared for an indefinite waiting period and we need to find the best alternative solutions.

It is noted that Indonesia is a non-signatory country to the 1951 refugee convention. However, given that Indonesia adopts most universally recognized human rights standard in its Constitution and domestic laws, as well as has ratified or accessed most of the core international human rights treaties, Indonesia is still obliged to respect,

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SUAKA

to protect, and to fulfill the rights of everyone, including asylum seekers and refugees, under its jurisdiction. It is where this handbook of Know Your Rights gains its significance. This book attempt to see refugee rights from Indonesia's domestic laws perspective, which could be used as a reference for asylum seeker and refugee to understand their rights under Indonesia's legal frameworks in hopes to protect them in exercising those rights.

This book could also be seen as reference and support for government officials as well as general Indonesian societies to better understand their obligations toward the rights of everyone, including asylum seeker and refugee, and to create better policies as well as measures as part of Indonesia's preparedness in dealing with asylum seeker and refugee in today's global crisis, shrinking resettlement options, and indefinite transit period.

SUAKA, Sandya Institute, and Jesuit Refugee Service hope to see the situation where asylum seekers and refugees staying in Indonesia are seen not as a burden in the country and to have their rights be respected as human beings who have access to their human rights and justice which will enable them to positively contribute to Indonesia. We also would like to highly appreciate the support from UNHCR in making this book valuable for refugee and asylum seeker in Indonesia context.

Jakarta, 1 December 2018.

Febi Yonesta
Chairperson of SUAKA

FOREWORD

UNHCR

This year marks the 70th anniversary of the adoption of the Universal Declaration of Human Rights, a landmark document which reaffirms our common humanity, universal values and our shared commitment to equality and dignity for all. Enshrined in the Universal Declaration is the fundamental human right of all individuals to seek and enjoy asylum from persecution. This important occasion is indeed the right time to remind ourselves that refugee rights are human rights, and to demonstrate our solidarity with refugees and with the communities that host them.

Globally, UNHCR is mandated to help host governments find solutions for refugees. Traditionally, these include voluntary repatriation to their home countries, resettlement to a third country, or integration in their country of asylum. However, given today's complex world, we now look comprehensively at a range of solutions. For most refugees in Indonesia, returning home in safety and dignity is not a viable option. The violence, conflict and persecution that pushes refugees to flee their home countries, including Afghanistan, Somalia, Iraq, Iran and others, continues. And for now in Indonesia, despite our strong advocacy, resettlement countries offer only a limited number of resettlement places every year benefiting few refugees. We therefore work with the Government and other partners to help refugees prepare for the future through education, vocational training and entrepreneurship projects that also benefit host communities.

As refugees remain in Indonesia anticipating longer-term solutions, it is important that they know their rights, as well as their obligations as rights holders. This handbook provides guidance to refugees in Indonesia regarding the rights they are entitled to in Indonesia and more importantly how they can exercise their rights in practice. It also serves to remind refugees of their responsibilities during their stay in Indonesia in order to co-exist peacefully with their generous host communities.

FOREWORD

UNHCR

I take this opportunity to thank the Government of Indonesia for its commitment to host and protect refugees until solutions can be found for them. Indonesia's long-standing humanitarian tradition is enshrined in Presidential Regulation No. 125/2016 on the Handling of Refugees. UNHCR stands ready to continue providing support and assistance to the Government as it moves forward in implementing this important law.

At this challenging time of limited resettlement opportunities, UNHCR is also committed to strengthening cooperation and coordination among all relevant stakeholders in the country. In this regard, I would also like to thank all the volunteers and lawyers from SUAKA, Sandya Institute, JRS, and Jakarta Legal Aid Institute, whose hard work has made this handbook possible. It is a testament to the strong cooperation and dedication of Indonesian society to stand together #WithRefugees.

Finally, I would like to thank the European Union for its tremendous support over the last three years to UNHCR Indonesia. It has enabled us to build capacity to prevent detention of children, to protect refugee children and other refugees in detention, and to strengthen refugees' access to justice through legal empowerment.

By all of your actions individually and collectively, you are indeed showing that refugee rights are human rights. What better way to commemorate this 70th anniversary of the Universal Declaration of Human Rights!

Thomas Vargas
UNHCR Representative in Indonesia

FOREWORD

SANDYA INSTITUTE

Universal Declaration of Human Rights proclaimed momentous universal norm that we are all born free and equal in dignity and rights. Its emphasis on freedom is manifested through various ways, one of which is through safeguarding/ensuring the freedom from fear and persecution. This becomes the basis of the right to seek asylum, which is also a fundamental human right.

Currently, we are faced with wars, violence and persecution that have made more than 68.5 million people being forcibly displaced worldwide, we are in the midst of the most challenging global refugee crisis in the history of humanity. Although Indonesia has yet to ratify the 1951 Convention Relating to the Status of Refugee and 1967 Protocol Relating to the Status of Refugee, the country has a long tradition of hosting refugees and people in need of international protection. As of May 2018, Indonesia accommodates around 13,900 refugees from 49 countries in the world, most refugees in Indonesia came from Afghanistan (55%), Somalia (11%) and Iraq (6%). Out of this total population, 17% of the refugees, including some 700 children (21% of the total population of refugee children) are kept in detention facilities across Indonesia, waiting to be transferred.

Among the 13,900 refugees and asylum seekers, only few are successfully resettled to the third country. This means that the rest of the refugees and asylum seekers are stuck in Indonesia and live at a bare minimum. In most cases, they live with limited rights to obtain education, livelihood, accommodation and health services. We listened and discussed with the refugees and asylum-seekers community and after the discussion, we believe that their lives would be better off if they are able to comprehend their rights in Indonesia. Hence, we work together with the United Nations High Commissioner for Refugees (UNHCR), SUAKA and Jesuit Refugee Services to provide them with the Know Your Rights Handbook, so they would be able to understand their rights better.

FOREWORD

SANDYA INSTITUTE

Lastly, Sandya Institute would like to express our gratitude to all of our partners and volunteers for this meaningful and productive collaboration, as an institution that works to promote and protect the rights of minorities and refugees in Indonesia, we are committed to further the development of this handbook and to assist stakeholders to find comprehensive solutions for asylum seekers and refugees in Indonesia as our means to implement the value that is enshrined in the Universal Declaration of Human Rights.

Diovio Alfath, S.H.
Executive Director of Sandya Institute

KNOW YOUR RIGHTS

EDITOR'S NOTE

This document was initiated with the realization that rights are not readily accessible and being upheld for refugees and asylum seekers living in Indonesia. This results in precarious situations refugees and asylum seekers should face on a daily basis.

Understanding the problem, SUAKA has been planning to develop a document that will help refugees and asylum seekers understand their rights and how to access it. Similar plans, fortunately, also emerge from fellow organizations who work to uphold refugees' rights, Sandya Institute, UNHCR, and Jesuit Refugee Service. The organizations collaborated, giving their resources, time, and energy to engage in a series of discussions to understand what is relevant to ease the burden of refugees and asylum seekers living in Indonesia.

Upon our discussions, we agree that ten issues should be put forward. There are issues that we believe relevant but the limited time and resource pushed us to prioritize ten of them, with the determination to work on the rest as the document as our collaboration continues. Legal reviews on current regulation was the starting point of our writing process, ensuring that the information is in-line with Indonesia's legal framework. We also consult the drafts with representatives from the government and the refugee community, an effort to confirm and elaborate the information we already had.

You can read the document partially as each chapter tries to address different issues. However, some chapters may intermingle as it is connected with each other. We will try to continuously update the information periodically, hoping that the document will be as resourceful as possible.

KNOW YOUR RIGHTS EDITOR'S NOTE

Lastly, we hope the book can help refugees and asylum seekers living in Indonesia to know their rights and how to access it. We realize that there is still plenty of homework to be done to ensure that refugees' and asylum seekers' rights are fulfilled. Further collaborations are still needed, not only with the organizations but also with the refugee communities and other stakeholders.

Jakarta, 1 December 2018

SUAKA

SEEKING ASYLUM IN INDONESIA

1

Seeking asylum is a right protected under the 1945 Indonesian Constitution (Undang-Undang Dasar) article 28G section 2. Seeking asylum is also included in other regulations, such as Foreign Relations Law (Undang-Undang Hubungan Luar Negeri) chapter six and protected under the 1999 Human Rights Law.

In 2016, by the mandate of the Foreign Relations law, Indonesia issued the Presidential Decree No.125 of 2016 on the Handling of Refugees from Overseas in Indonesia. The 2016 Presidential Decree adopted the definition of refugee stipulated within the 1951 Convention, and gave the authorisation to UNHCR to recognise.

It is stated in article 1 (1) of the Presidential Decree that foreign refugee, hereinafter referred to as refugee, shall mean a foreigner who resides within the territory of the Republic of Indonesia due to a well-founded fear of persecution based on race, ethnicity, religion, nationality, membership of a particular social group, and different political opinions, and does not wish to avail him/herself of protection from their country of origin and/or has been granted the status of asylum-seeker or refugee by the United Nations through the United Nations High Commissioner for Refugees.

WHO CAN DETERMINE OR GIVE YOU REFUGEE STATUS?

Indonesia is not a party to the 1951 Refugee Convention. The process to determine if an asylum seeker can be recognized as a refugee is called "Refugee Status Determination (RSD)". The Indonesian government gives such mandate to the United Nations High Commissioner for Refugee (UNHCR). Therefore, although the Foreign Affairs Law authorised the President the power to grant asylum, Refugee Status is still determined by the UNHCR.

WHAT IS THE DIFFERENCE BETWEEN REFUGEES AND ASYLUM SEEKERS?

On the practical level, someone who enters Indonesia with the intention to seek safe haven from persecution or general insecurity is considered as an asylum seeker, once one declares that they want to be refugee or want to seek asylum or want to register to UNHCR. A refugee is an asylum seeker whose claim of refugee status is deemed "credible" by UNHCR that their claim of refugee is credible.

IMPORTANT

Claiming or declaring your intention to seek for asylum in Indonesia does not automatically mean you will be recognized as refugee. You will still subject to Refugee Status Determination by UNHCR.



With the existence of the Decree, Indonesia provides its commitments to honor and commit to the international principle of non-refoulement; the act of not deporting a person who has the intention to seek asylum, to the country where the person has reason to fear of persecution.

IMPORTANT

If you are denied entry to Indonesia and at risk of forceful deportation, you can contact UNHCR



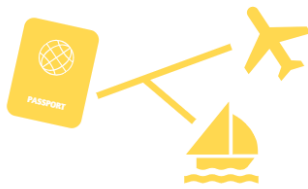
WHAT IS YOUR RIGHT AS AN ASYLUM SEEKER ENTERING INDONESIAN TERRITORY?

Asylum seekers coming to Indonesia by sea most likely will be intercepted by the authorities, e.g. Navy (TNI AL), Naval Police (POLAIRUD), National Search and Rescue Agency (BASARNAS) or merchant or fisherman boats or immigration (if arriving at an international port). If you want to seek asylum, you have to declare your intention at the first instance to any authority who find you. Do not wait until you meet UNHCR.

According to the law, the intercepting authority shall refer the person to the closest Immigration authority for registration. Since the person declares to seek asylum or to be a refugee, immigration has the responsibility to contact UNHCR for determination of their status and registration (Pres. Reg. art. 13 (3), 20 (2)). Immigration and local government have the authority to put asylum seeker in a temporary shelter (Pres. Reg. art. 24).

An asylum seeker coming to Indonesia by air and arriving at the airport will be subjected to the immigration process. Having both valid passport and visa then seeking asylum is not by law mutually exclusive. If you come with valid travel documentation, such as valid passport and visa, you still need to come directly to UNHCR office and be registered as asylum seekers. The UNHCR shall issue your documentation in the form of letter or ID card. This process is also for the person who arrived by sea, who managed to land safely without an interception from the authorities





If the person comes without valid travel documentation, you **MUST** declare that you intend to seek asylum. If you do not declare it, you will be subject to detention and considered as violating immigration law, no matter how you arrive or where your point of interception is.

Make sure that declare your intention to seek asylum in Indonesia to the authorities whenever possible.

If you do not speak English, then you may find some difficulties. If this happens when you are facing Indonesian officials, they have to coordinate with UNHCR to conduct registration and RSD procedure according to the immigration procedure (Perdirjenim April 2016 art 2 and 3) and presidential decree art 13 (3) and 20 (1).

UNHCR Indonesia's office is located in Jakarta and it has representatives in Kupang, Makassar, Medan, Pekanbaru, and Tanjung Pinang. If you happen to arrive on those cities, please approach the closest UNHCR office in your area to register yourself. If you are unable to reach the closest UNHCR office by yourself, UNHCR officers may visit you for registration purposes. If you are detained in immigration facilities, you must request the immigration authority to be in coordination with UNHCR.

IMPORTANT

**If you are in trouble for seeking asylum in Indonesia, you could contact:
UNHCR Indonesia office at Jakarta
LBH Jakarta
JRS Bogor**



REFUGEE STATUS DETERMINATION

2

RSD stands for Refugee Status Determination. RSD is a process to determine whether someone as an asylum seeker can be granted refugee status or not. The Indonesian government authorises UNHCR to conduct RSD, so that refugee statues can only be determined and given by the UNHCR. The Indonesian government does not have the authority to determine your asylum claim.

UNHCR will proceed with Refugee Status Determination based on the 1951 Refugee Convention and the 1967 Protocol, including the vulnerability criteria.

HOW TO REGISTER FOR RSD?

UNHCR office in Jakarta is open for registration every weekday from Mondays to Thursdays from 07:30 am – 05:00 pm. Meanwhile, UNHCR representatives in Kupang, Makassar, Medan, Pekanbaru, and Tanjung Pinang are only available for registration by prior appointment.

Registration will be conducted by UNHCR Registration Officer. They will collect your personal information and the details of your refugee claim, take your photograph, collect your fingerprints and iris scans, and conduct interview afterwards. The interview can be held directly after they collect your information or later on and if you have any family member, this process also applies to them. You will receive further instruction following up your registration.

HOW LONG IS THE PROCESS OF RSD?

UNHCR office in Jakarta is open for registration every weekday from Mondays to Thursdays from 07:30 am – 05:00 pm. Meanwhile, UNHCR representatives in Kupang, Makassar, Medan, Pekanbaru, and Tanjung Pinang are only available for registration by prior appointment.

WHAT IF SOMEONE DOES NOT SPEAK ENGLISH OR INDONESIAN? WILL AN INTERPRETER ASSIST THEM FOR THE RSD PROCESS?

All communications between an Applicant and UNHCR must take place in a language that the asylum seeker/applicants understand and in which he/she can communicate clearly. UNHCR should provide trained and qualified Interpreters at all stages of the RSD process.

There are cases where qualified and trained interpreters are not available. In this case, UNHCR may consider using a non-UN community interpreter or applicant-provided interpreter, even family member of the applicant.

CAN ASYLUM SEEKERS HAVE LEGAL REPRESENTATION DURING THE RSD PROCESS?

Asylum seeker can benefit from legal representation assistance during the RSD process. Legal representation during the RSD process has a non-adversarial nature which means it works cooperatively to reach the best resolution for everyone. However, in Indonesia, the availability of lawyers that have been trained about the RSD process and refugee law is limited.



Generally, individuals wanting to be legal representatives need to possess the following criteria:

- 1 a working understanding of international refugee law;
- 2 a working understanding of UNHCR procedures;
- 3 experience in assisting to help claim refugee status;
- 4 a thorough understanding of the Applicant's claim;
- 5 follow a code of ethics or professional responsibility, such as the Model Rules of Ethics for Legal Advisors in Refugee Cases (Nairobi Code); and
- 6 a formal law degree or current professional legal accreditation is NOT required.

Furthermore, an individual who fulfills the criteria below is deemed to be qualified, unless there are good reasons to believe that they are not qualified:

- 1 has a valid license or professional legal accreditation from the country where asylum seeker/applicants staying; as a lawyer, solicitor, attorney, barrister, counselor-at-law or equivalent professional designation; or
- 2 is a member of an established and reputable organization providing free or low-cost legal representation to asylum-seekers and refugees with which UNHCR has a partnership arrangement; or
- 3 has already been authorized by UNHCR to act as a legal representative in mandate RSD procedures.

IS IT NECESSARY TO HAVE LEGAL REPRESENTATION DURING THE RSD PROCESS?

It depends on the need from the asylum seeker. There are asylum seekers who can go through the RSD process by themselves because of their level of educational background and/or communication/language ability. However, not every asylum seeker can understand the process, procedure and many legal terms found during the RSD process. Legal representation can give advice that can help asylum seeker going through the RSD process.

WHAT KIND OF LEGAL REPRESENTATION THAT CAN BE ACCESSED REGARDING THE RSD PROCESS?

Based on the Nairobi Code art. 2, legal advisor can help you by providing:

- 1 **Advice or consultation;** including providing an opinion about how law or policy is implemented, considering the circumstances of a person.
- 2 **Document preparation;** including assisting a person in preparing written documents under the person's name, including but not limited to RSD Application form, personal testimonies that are intended for submission in support of an RSD, preparation of oral and written submissions, collection and submission of supporting evidence or other applications.
- 3 **Representation;** including acting on behalf of another person either through verbal or writing, including the submission of memoranda arguing that a person meets legal criteria for a refugee. Also if needed, to be present during the interview with UNHCR.

DURABLE SOLUTIONS FOR ASYLUM SEEKERS AND REFUGEES

Asylum seeker and refugee that has been registered with UNHCR has the right to ask about their status in the resettlement process. Unfortunately, resettlement itself is not an automatic right available to all refugees.

Resettlement is just one of the Durable Solutions offered by UN. The others are Local Integration -which is not yet possible in Indonesia for all refugees, and Voluntary Repatriation -where you can choose to voluntarily return to your country if you can do so safely.

The current chance for resettlement is very low. Resettlement, with limited places, are prioritized for the most vulnerable among the refugee population. The number of resettlement places allocated to Indonesia is decided by resettlement countries - not by UNHCR.



UNHCR is looking for creative solutions to support refugees in countries of asylum, including Indonesia, through temporary stay measures that allow refugees to access opportunities for self-reliance through education, skills

development, and (eventually) self-sufficiency activities. Rights and obligation regarding those opportunities are explored in this hand book

If UNHCR closes your case, e.g. your appeal rejected, or you withdraw your RSD application, then you are not under the UNHCR protection in any circumstances. If you got caught by the authorities, you might be subject for detention or prosecution and deportation.

FOR MORE INFORMATION

Please consult with UNHCR officer or visit UNHCR Indonesia website or contact SUAKA, LBH Jakarta, and JRS Bogor



RIGHTS TO LEGAL COUNSEL

3

In Indonesia, refugees may experience legal problems, either it is in criminal, civil, or administrative areas. You may also experience unfair treatment, such as being a victim of a crime, suffering a civil loss, or even experiencing an act of arrest and arbitrary detention, the use of violence, and unfair trials. If you experience it, you deserve to have access to counsel from lawyers or other legal aid providers. The importance to have legal counsel is to ensure that refugee receives legal advice, protection and/or fair due process of law, both inside or outside judicial proceeding.

The right to legal counsel is guaranteed in Indonesia legal framework. It applies to everyone regardless of their status of citizenship. Therefore, asylum seeker and refugee are entitled to legal counsel, either from a paid lawyer or a free legal service if they cannot afford it.

Below are Indonesian laws where the right to legal counsel is guaranteed:

LAWS	CONTENT
Indonesian Constitution [UUD 45] - Art. 28D	It guarantees everyone's right to legal recognition, guarantee, protection, and certainty, as well as the equal justice before the law.
Criminal Procedure Code [KUHAP] - Art. 54, 59, 60, 114, and Chapter VII	It guarantees the rights of suspect or defendant to legal counsel in undergoing a criminal process.
Advocate Law [UU No.18 of 2003] - Art. 22	It obliges advocate/lawyer to provide free or pro bono legal service to the poor and those who cannot afford one.
Legal Aid Law [UU No.16 of 2011]	It guarantees the rights to legal aid for the poor and those who cannot independently fulfill their basic needs.
Judiciary Power Law [UU No.48 of 2009] - Art. 56 & 57	It guarantees the right of everyone to legal aid in the judicial procedure, where the state shall bear the cost for those who cannot afford it.

WHERE YOU CAN OBTAIN LEGAL COUNSEL?

If refugees can afford to hire a lawyer, they can request legal service from any commercial law firm. However, if they cannot afford a lawyer, there are two types of free legal aid services that they can access.

STATE LEGAL AID SERVICE

It is a type of legal aid service provided by the state through several channels, namely The Ministry of Law and Human Rights, criminal law enforcement agency, and the Supreme Court.

THE MINISTRY OF LAW AND HUMAN RIGHTS

The Legal Aid Law provides free legal aid policy for the poor and those who are unable to fulfill their needs independently. These legal aid services provided by the Ministry through any accredited Organisasi Bantuan Hukum (OBH) or Legal Aid Organisation. To obtain this service, a refugee is required to have a letter of poor or unaffordability.

CRIMINAL LAW ENFORCEMENT AGENCY

The Criminal Procedural Code (KUHAP) regulates obligation for a law enforcement officer, i.e., a Police investigator, to provide legal aid to any suspects of criminal offenses who is charged with five years or above. When a person is charged with a penalty of five years imprisonment or more, the law obliges the existence of lawyer to assist the process, including a refugee. Therefore, you can request for free legal service provider or lawyer to the investigator.

SUPREME COURT

Under Judiciary Law, the court is obliged to provide free legal service to those who cannot afford it. In most court, free legal service is provided by Legal Aid Post (POSBAKUM) based in the court. However, you may decline any legal service provided by the court.



PRO BONO LEGAL SERVICE

It is a type of free legal services provided by an advocate or lawyer as part of their pro bono obligation. It can be done through the advocate's personal capacity or the Bar Association. Pro Bono legal service is free of charge or any form of payment to those who cannot afford to pay. You may be required to show a certificate of disadvantage (Surat Keterangan Tidak Mampu/SKTM)

INDIVIDUAL PRO BONO

When you face a legal problem, you may approach to any admitted lawyer (advocate) to request a free pro bono legal service on his or her personal capacity. The request can be accepted based on bilateral agreement between refugee and the lawyer. However, it can still be rejected on the ground of incompetency or conflict of interest.

BAR ASSOCIATION

You may also submit your request through the local or national bar association. You may be required to fill out a form consist of name, address, occupation, case summary, and summary of your inability to afford attached with a certificate of disadvantage, and another relevant document. When your request is approved, you will be referred to local Legal Aid Center (PBH) under the Bar. The local PBH subsequently takes up your request and follow up the free pro bono legal service.

IMPORTANT

You could contact the Legal Aid Organization in your area by looking at the list provided by the National Law Development Agency or BPHN through this link: <https://goo.gl/MKHtqw>



4

RIGHTS TO ADEQUATE STANDARD OF LIVING

Indonesian constitution and human rights law provides guarantee the rights to adequate standard of living for anyone in Indonesia. Adequate standard of living means the activities conducted can support daily needs; or having activities which could cover living costs.

WHAT IS ADEQUATE STANDARD OF LIVING UNDER THE LAWS?

Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by Indonesia in 2006, stipulates that:

“The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing, and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent.”

COMPULSORY PERMITS FOR NON-INDONESIAN NATIONAL(S) TO CARRY OUT INCOME GENERATING ACTIVITIES

A non-Indonesian citizen must obtain a permit to carry any form of income-generating activities in Indonesia which should be applied by the potential host institution to relevant government authorities. Unfortunately, the application of such permits requires your valid identification (i.e., Indonesian Identify Card or passport and/or visa) which is difficult to be fulfilled by asylum seekers and refugees.

Currently, there is no regulation on whether refugee card issued by UNHCR can be treated as valid identification in the context of income-generating activities. However, once an institution hosts you, you have the right of non-discriminative requirement as well as the right of fair and proper remuneration and treatment.

INTERNSHIP OR APPRENTICESHIP ACTIVITIES

IN INDONESIA

Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by Indonesia in 2006, stipulates that:

“part of a job training system that integrates training at a training institute with working directly under the tutelage and supervision of an instructor or a more experienced worker/laborer in the process of producing goods and/or services in an enterprise in order to master a certain skill or trade.”

Any person taking part in an internship or apprenticeship program are entitled to be given pocket money and/or transport money, as well as the right to receive social security provided by the host institution.



Current regulations on internship or apprenticeship mechanism are only available for Indonesian citizens, who stay both in Indonesia or abroad. Meanwhile, the regulation on internship or apprenticeship for non-Indonesian citizens is still unclear, including if it is conducted by the institution within or outside of Indonesia. The Indonesian host institution of your internship or apprenticeship shall find out what works best for you.

Nonetheless, in some cases, the government still requires a non-Indonesian wishing to do an Internship to undergo the same procedures as a working non-Indonesian.

ARE YOU ELIGIBLE TO WORK IF YOU ARE MARRIED TO INDONESIAN CITIZEN?

Under Article 61 of Law No. 6 of 2011 on Immigration, legally documented marriage between Indonesian citizen and non-Indonesian citizen needs to be followed by the application for Temporary Resident Permit or Permanent Resident Permit, especially for non-Indonesian citizens family members. Such permit will enable you to be involved with activities to fulfill your family's needs. For more information, please refer to the Mixed Marriage chapter in this book.

WHAT HAPPENS IF I AM PERFORMING MY RIGHTS TO HAVE AN ADEQUATE STANDARD OF LIVING?

The right of adequate standard of living can only be achieved if you make an effort to actualise it. However, there are certain things that would expose you to some risks in trying to achieve this right, which are:

- 1 You must be aware that having income-generating activities may put you in risk of being transferred to the immigration detention facility or immigration's criminal prosecution.
- 2 If an authority apprehends you, you are entitled to ask the reason and ground of apprehension.
- 3 If the reason for apprehension is a violation of the immigration laws' criminal provision, it is your right to ask them about legal assistance and you should not be harmed by asking them such matter.
- 4 You can also argue that your activity is to provide basic daily needs of your family, which guaranteed by the Constitution and Human Rights Law.

IMPORTANT

You can seek support and advice to:
UNHCR
YLBHI Network, including LBH Jakarta
Jesuit Refugee Service
SUAKA



RIGHTS TO HEALTH SERVICES

5

Under the Presidential Decree of the Republic of Indonesia No.125/2016, both refugees and asylum seekers have the right to access health services in Indonesia.

HOW DO I ACCESS HEALTH SERVICES IN INDONESIA?

If you are living independently, you are eligible to access health services facilities in the same manner that Indonesian citizen are able to access it. However, you still need to pay for your health services.

If you are not living independently, i.e., at shelters, detention centers, or community housing under IOM care, basic health services facilities are provided to you. However, you need to ask IOM whether or not you can access the treatment from healthcare outside provided by IOM.

WHERE CAN I GO TO GET HEALTH SERVICES?

There are two main health services facilities you can access in Indonesia:

1 **Community Health Clinics (Pusat Kesehatan Masyarakat/PUSKESMAS)**

Pusat Kesehatan Masyarakat or Puskesmas is available on sub-district level across Indonesia. You may need to pay a certain fee for registration starting from Rp 5,000 and Puskesmas will give you a treatment card or Kartu Berobat which is not only used to keep track of your medical record but also for your next visits. You may use the identity card provided by UNHCR for the administrative process.

Puskesmas generally provide basic health services such as:

- a. Basic pregnancy-related treatment (obstetrician-gynecologist)
- b. Internal diseases specialists
- c. General practitioners
- d. Dentists (in some Puskesmas only)

2 Hospitals

There are two types of hospital in Indonesia: government and private-owned hospitals. These hospitals provide a diverse range of services, including laboratory services, physiotherapy, etc. Hospitals do not have any restriction to provide healthcare access for refugees and asylum-seekers. You will still be charged with registration fee which usually start from IDR 50.000.

Similar with Puskesmas, you will be given a treatment card or Kartu Berobat during the registration, which is not only used to keep track of your medical records, but also for your next visits. You may use the identity card provided by UNHCR for the administrative process.

WHAT CAN I DO WHEN I HAVE EMERGENCY SITUATION?

If you have an emergency situation, you can go to the Emergency Room (Instalasi Gawat Darurat / "IGD") at the nearest hospital or other health facilities that provide Emergency Room (some Puskesmas, clinics, etc.). IGD shall be available in times of emergency although you may need to pay for the treatment. The ambulance is also available although you may be charged with certain fees and costs.



In an emergency, any health facility (both government-owned and private) must provide you with health services to save lives and prevent disability.

Any health facility cannot reject patients and/or ask for down payment, according to Article 32 of Law no. 36 of 2009 on Health.

Any deliberate denial of first aid in an emergency situation is a crime punishable by law, and the perpetrator shall be subjected to imprisonment of maximum two years and fine for maximum IDR 200 million (Article 190 Law No.36 of 2009 on Health).

IMPORTANT

You also have the right to claim compensation for any loss caused by mistake or negligence of the health services facilities. (Article 58 Law No.36 of 2009 on Health). If you think you are experiencing any, contact your local legal aid organizations for help and advice.



DO MY CHILDREN ALSO HAVE THE RIGHT TO HEALTHCARE?

Refugees and asylum seekers babies and children are also entitled to access to health service. In addition, refugees and asylum seekers babies and children can also get basic vaccinations and immunizations at local Puskesmas at a very affordable price (Article 130 & 132 Law No.36 of 2009 on Health).

WHAT CAN I DO IF I CANNOT PAY FOR HEALTH SERVICES?

In some circumstances, you can seek health support from the following organizations and they might be able to help with some requirements:

1. IOM - Criteria:

- a. living under IOM care
- b. provide Puskesmas referral letter
- c. approval from the IOM medical team

2. UNHCR/CWS - Criteria:

- a. emergency and/or life-threatening situations
- b. provide Puskesmas referral letter
- c. in an emergency situation, you can access the Emergency Room directly after receiving approval from the CWS Health Officer (Health Officer Hotline Number: 0811 8161 511)

3. JRS - What you need:

- a. provide Puskesmas referral letter
- b. UNHCR card
- c. any relevant medical documents (Health Officer: 0812 9673 9241)

SPECIAL TREATMENT

- a. Patients with Tuberculosis (TBC): are eligible for subsidized medicine provided by the government's National Tuberculosis Control program. The medicine is available at both local Puskesmas and hospitals.
- b. Patients with HIV/AIDS: Voluntary Counseling and Testing (VCT) is available for free at all PKBI (Perkumpulan Keluarga Berencana Indonesia) clinics and some Puskesmas.
- c. Patients with Mental Health problem: psychological counseling service and psychiatric treatment can be accessed through the organizations mentioned above.

IMPORTANT

IOM cannot support those who are not registered with Indonesian Government and referred to IOM for assistance by 15 March 2018.



RIGHTS TO EDUCATION

6

The Human Rights Law guarantee that every person, not only Indonesian but also everyone residing in Indonesian territory, has the right to receive education, to educate himself, and to improve his quality of life (art. 12). The law also guarantees that every child has the right to receive education and to develop himself in accordance with his interest, talent, and level of intelligence (art. 60). The child is defined as every person under 18 years old, who is not married, including, as applicable, a child who is still in the womb.

WHAT ARE THE CHALLENGES?

As stipulated in Article 12(3) of National Education System Law, non-Indonesian citizens may be admitted as students in any educational institutions. According to Article 32 (2), they should fulfill the following requirements:

- a. the foreign citizen must have Indonesian language capabilities if the school's classes are delivered in the Indonesian language;
- b. the foreign citizen must satisfy the requirements set out in the Regulation on Admission of New Students; and
- c. the foreign citizen must satisfy the requirements applicable to foreign citizens in Indonesia as set out in the relevant laws and regulations.

There are several requirements to be fulfilled in order to obtain the permit for international students to be enrolled in schools, which are:

- a. A statement letter from the parents that the student's presence in Indonesia is only for educational purposes and not to work.
- b. A statement letter from the parents on the financing of the fees payable to the school.
- c. A statement letter from the school in Indonesia.
- d. A passport with a validity of at least 18 months.
- e. The latest school report.
- f. Passports of the parents/sponsor identity.

In practice, refugee children can access national schools if they speak Indonesian and seats are still available. However, one major legal obstacle in Indonesia is that a National Identification Number (NIK) is required to enroll in national exams, which cannot be obtained by an undocumented person. The unavailability of NIK hampers refugee children to attain formal diplomas. Although the Ministry of Education Affairs may provide regulation to permit international students, administrative requirements as mentioned previously make it difficult for refugees to obtain such permit.

WHAT ARE AVAILABLE EDUCATION OPPORTUNITIES FOR REFUGEES?

INDONESIAN EDUCATION SYSTEM

Based on certain regulations, the education system in Indonesia is divided into three categories: formal education; non-formal education; and informal education.

- 1 Formal education - a structured "learning system" with the following education levels:
 - a. basic education, i.e., primary and junior high school;
 - b. intermediate education, i.e., general high school or vocational high school; and
 - c. higher education, i.e., academies, polytechnics, colleges or universities.

Organizations such as UNHCR and IOM can facilitate refugees to be enrolled in public school. The organizations have the programs to prepare refugee children about Indonesian language skills, social competencies, as well as facilitate school admission with coordination with the provincial Offices of Education Affairs. Through this facilitation, some refugee children in Jakarta, Makassar, and Medan have been able to enroll in primary public schools.

As for access to higher education (universities in Indonesia), some of the following requirements have to be met by non-Indonesians: (a) have a visa or permit to study in Indonesia; and/or (b) have study permit from Ministry of Research, Technology, and Higher Education of Indonesia

IMPORTANT

There have been cases of refugees children being given access to public education in several regions in Indonesia. However, such practices were ad hoc and relied heavily on each of the schools' requirements on the supporting documents (including the school's flexibility to accommodate the absence of such supporting documents).



2 Non-formal education - aimed to support, supplement, and/or act as an alternative to the formal education.

This non-formal education includes life-skills training, women empowerment, youth education, vocational skills, and language courses. Non-formal education may be held by various institutions, such as training institutes, learning groups, social learning activity centers, majelis ta'lim (learning place for Islamic or Koran studies), or community-based learning center.

Refugee can access Pusat Kegiatan Belajar Masyarakat or PKBM (Community Learning Center), a unit of non-formal education that provides certification that is equivalent to primary until intermediate level of education. PKBM is a community-based learning center which integrates government program and community initiatives to improve human's quality. In Jakarta, some refugees have managed to access education in PKBM with the facilitation of UNHCR and its partners. After one year of learning activity in PKBM, the students can sit in the exam to obtain certificate equivalent to primary school (Package A), junior high school (Package B), and high school (Package C).

In addition, there are several community-based refugee learning centers that provide education for refugees.

1 In Jakarta

- a. Roshan Learning Centre (<http://roshanlearning.org/>);
- b. HELP (Health, Education, and Learning Program) Learning Centre
- c. (<https://www.facebook.com/helpforrefugees.id/>);
- d. Sunrise Refugee Learning Center (<https://www.sandya-institute.org/sunrise/>);
- e. Refugee Center Asem Baris (PKPU/CRS);
- f. Refugee Center Ciputat (PKPU/CRS).

2 In Bogor

- a. Cisarua Refugee Learning Centre (<http://cisarualearning.com/>);
- b. Refugee Learning Centre (<https://www.refugeelearningcenter.com/our-center/>);
- c. Refugee Learning Nest (<https://www.refugeelearningnest.com/>);
- d. Cipayung Refugee Educational Centre (<https://www.facebook.com/Cipayung-Refugee-Educational-Centre-799827696819379/>);
- e. Hope Learning Center (<https://www.facebook.com/HopeLearningCenterCisarua/>).

However, these learning centers are managed independently by the community which are not connected to any education program conducted by the government. Thus the certificate provided is not acknowledged by the education system of Indonesia.



2 informal education - defined as education from the family and the living environment such as independent learning activities or 'home-schooling.' Furthermore, Government Regulation No.17 of 2010 stipulates that results of non-formal education and informal education will only be equivalent to the results from formal education after going through a test that fulfills national education standards administered by a government-appointed institution, named Kejar Paket. Certificates issued by non-formal and informal education providers are not required for the participants to take national standardized test to join formal education. The test can also be done after following the learning activity in PKBM as explained above.

Online course:

Coursera is an online course platform which is partnering with top universities and organizations offering various courses online. Refugee can access the courses for free with the facilitation of UNHCR. To register, a refugee can write an e-mail to UNHCR at insjacbp@unhcr.org. To get more information on Coursera, please visit www.coursera.org.

Skills training:

UNHCR and its partners offer various skills training such as entrepreneurship, culinary, sewing, and mobile phone technician. For opportunities which are available, please contact UNHCR at insjacbp@unhcr.org or visit their website <http://www.unhcr.org/indonesia.html>.

7

FREEDOM OF ASSOCIATION

You are allowed to establish an association, assembly, community, initiative, or organization (herewith referred to as an organization) in Indonesia, including but not limited to, Learning Center, Sports Association, Cultural Association, etc. You are not explicitly prohibited from holding peaceful public assemblies or public protest.

WHAT IS THE LEGAL BASIS?

Article 28E Paragraph 3 of The Constitution and Article 21 and 22 of the Law No.12 of 2005 on the Ratification of International Covenant on Civil and Political Rights (ICCPR) guarantee your freedom of assembly, association, and freedom of expression.

Law No. 17 of 2013 on Organisasi Masyarakat (Civil Society Organizations) as amended by Law No. 16 of 2017 states in Article 10 that Civil Society Organizations can be recognized as a legal entity or non-legal entity, with two types; membership or non-membership based. Article 59 limits organizations' activities such as imitation of government institutions, law enforcers and other organizations (international or local). It also forbids inciting hatred towards other racial groups and acknowledged religion.

Staatsblad 1870-64 and Law No. 16/2001 on Yayasan (Foundation) as amended by Law No. 28 of 2004 govern association and organization that are categorized as a legal entity. On the other hand, non-legal entity is not specifically regulated by the government. According to the laws above, legal entity can only be established by Indonesian and/or foreigners that have fulfilled the required documents. In a legal entity, individual responsibility and assets are separated from the responsibility and assets of the legal entity itself.

UU No.9/1998 on Freedom of Expression in Public, in Article 1 and 2 stipulated the guarantee for the freedom of expression for the Indonesian. There are no explicit guarantees or prohibition of marches, assembly or protests done by foreign nationals or refugees. This leaves you at possible risk if you conduct a peaceful assembly due to the unpredictable discretion which may use by the law enforcement such as arbitrary arrest. Also note that Peraturan Kapolri No.9/2008 on Illegal Demonstration in Article 6 and 7 stipulated that demonstration may be conducted after sending a notification to the Police three days before the event, should be conducted around 06.00 - 18.00 and shall not disturb public order. If it is needed, you may ask LBH Jakarta or other legal aid organization in your area to assist you during the protest.

WHAT ARE THE CHALLENGES?

Under the constitution, you have the right to create an association, assembly or community. Any organization in Indonesia shall not be deemed illegal only because it is not registered as a legal entity under the Law, as the freedom of association in Indonesia is guaranteed by the Constitution of the Republic of Indonesia. Not all organization should be registered and formalized as a legal entity, as its legal registration only matters on organizational permissions, such as the ability to perform private/civil law activities such as being party to a contract, and other financial aspects such as management of fixed assets and funding from the government. The limitations that are imposed to any kind of organization (regardless of whether the organization is legal entity or not) are the funding of political parties, hate speech, blasphemy and non-permitted use of government institution or international organization symbols or attributes.

In Indonesia, the example of non-profit legal entities include the followings, but not limited to:

- 1 Foundation (Yayasan): for political, social, religious, and humanitarian needs;
- 2 Association (Perkumpulan/Organisasi Masyarakat Berbadan Hukum): merely non-profit.

In Indonesia, the example of non-legal entities include non-legal civil association (Perkumpulan / Organisasi Masyarakat Tidak Berbadan Hukum) such as; Civil Society Organizations (Lembaga Swadaya Masyarakat / LSM), fan clubs, neighborhood associations, hobby clubs, student organizations, alumni gatherings/associations, etc.

The differences between a legal and non-legal entity of organization or association are:

ITEM	LEGAL ENTITY	NON-LEGAL ENTITY
Separation of Responsibilities and Assets	Recognizes the separation of the responsibility as in institution and assets of the founders and the established entity	Assets are owned individually by members of the organizations and liabilities of actions such as contracts are drawn from the individuals stated as parties of the contract
Liability in case of dispute	Falls on the organization	Imposed on the individual
Asset	Might manage their asset under the association / organization name	Assets are owned individually (by members)
Registration process / pre-requisite to the formation of an association	Requires approval of the ministry of law and human rights by including the following items: 1. Articles/charter and memorandum of the association legalized by a notary act; 2. Work program; 3. Sources of funding;	It is advised, but not obligated to register to the ministry of internal affairs or head of the local government (governor, bupati / mayor) depending on your level of operation (national, provincial or kabupaten / city) and obtain a Letter of

ITEM	LEGAL ENTITY	NON-LEGAL ENTITY
	<p>4. Letter of Domicile (Surat Keterangan Domisili);</p> <p>5. Tax registry number under the name of the association / organization;</p> <p>6. A statement that shows the organization is not under any suit /action before the court;</p>	<p>Registration (Surat Keterangan Terdaftar). However, not being able to do so or rejection of said registration does not mean your association is illegal or will be disbanded.</p> <p>Requirements for said letter including:</p> <ol style="list-style-type: none"> 1. Articles / charter and memorandum of the association legalized by a notary act; 2. Work program; 3. Committee structure; 4. Letter of Domicile (Surat Keterangan Domisili); 5. Tax registry number under the name of the association / organization; 6. A statement that you are capable of reporting activities to the respective government agency. <p>If the relevant government agency decides that your registration is incomplete, the address of your location will still be registered for database purposes.</p>

ITEM	LEGAL ENTITY	NON-LEGAL ENTITY
International/ Foreign Funding	Possible	Not illegal. However, for refugees this will be difficult since to be able to obtain said funding might mean entering into a legal contract and non-legal entity organizations cannot become parties in the said contract, only individuals involved.
Local Funding	Possible	Possible. Except for funding from the local government budget, which requires the organization to be registered as a legal entity.
Notary	Needed	Obtainable if desired or possible but not an obligation.

WHERE YOU CAN GO FOR SUPPORT AND ADVICE?

Even if you are not successful in registering your organization, government authorities cannot dissolve your organization and/or stop your activities on this basis only.

IMPORTANT

Please contact your local legal aid organization to consult about what form of organization is best suited for your needs and if you are having any problems with law enforcement by following this link:
<https://goo.gl/MKHtqw>



RIGHTS TO BIRTH REGISTRATION

8

If you have a child with an Indonesian spouse (husband/wife) regardless where s/he was born, according to Citizenship Act No.23/2006, your child has the right to have both Indonesian citizenship and your citizenship until they are 18 years old. Between 18 to 21 years old, your child will have to decide which nationality he or she is going to keep. According to the Child Protection Act No.23/2003, it is illegal to deny citizenship to your child and cause him/her to become stateless.

The Indonesian government has ratified the Convention of the Rights of the Child including Article 22 on Refugee Child which means every child in Indonesia, including Refugee Child, has the right to have Birth Certificate from the Indonesian Government. Birth Certificate does not necessarily provide you Indonesian citizenship automatically, but a proof that your child exists and you are the parents. In general, all schools whether in Indonesia or a third country would require a birth certificate to enrol your child. You owe your child a future and giving his/her birth certificate is the first step to open all the doors. Birth Certificate is also useful to prevent child trafficking, resettlement fraud, and family separation.

WHAT IS THE LEGAL BASIS?

If your child was born in Indonesia, you have 60 days to report to Civil Registry Office where you reside in order to obtain birth certificate, according to Article 27(l) of Population Administration Act No.24/2013, otherwise you will be sanctioned with fine depending on your area of residence and approval from the Head of Civil Registry Office is required. You may ask the officer how much fine you need to pay. However, in some regions through their local regulation have waived the fine for late birth registration.

Based on Article 52(2) of the Presidential Regulation No.25/2008 Requirement and Procedure of Population and Civil Registration, if you cannot provide a formal marriage certificate, the Civil Registry Office where your child was born is obliged to register your child's birth.

If your child has Indonesian citizenship according to the 2006 Citizenship Act (for example born from an Indonesian mother), you need to submit these documents to obtain your child's birth certificate:

1. Birth Notification or Surat Keterangan Kelahiran from doctor or midwife or birth attendant;
2. The name and identity of the witness of the birth (along with their ID Card or Kartu Tanda Penduduk);
3. Family Card or Kartu Keluarga of the parents;
4. Parents' ID Card or Kartu Tanda Penduduk;
5. Parents' marriage certificate or Akta Perkawinan;
6. Attestation Letter or Surat Keterangan from RT/RW (often required).

If parents' marriage certificate is not available, the child can be registered under the mother's name only.

If your child's parents are both foreigners, for instance, refugees, your child does not acquire Indonesian citizenship. To obtain a formal birth certificate, you will need to submit these documents according to Article 51(2) of the Presidential Regulation No.25/2008 on Requirement and Procedure of Population and Civil Registration:

1. Birth Notification or Surat Keterangan Kelahiran from doctor or midwife or birth attendant;
2. Parents' marriage certificate or Akta Perkawinan;
3. Family Card (Kartu Keluarga) and ID Card (Kartu Tanda Penduduk) of the parents who hold Permanent Stay Permit (KITAP, Kartu Izin Tinggal Tetap) or Residence
4. Certificate of parents who hold Temporary Stay Permit (KITAS, Kartu Izin Tinggal Sementara);
5. Passports of parents who hold Visit Permit (Izin Kunjungan);
6. Attestation Letter or Surat Keterangan from RT/RW (often required).



WHAT CAN YOU DO

IF YOU FACES CHALLENGES?

If a child was born outside of formal wedlock from a refugee father and an Indonesian mother, the civil registry will register the child as a 'mother's child' (Anak Ibu) and acquires Indonesian citizenship to prevent statelessness. The father's name will not be listed in the birth certificate.



Indonesian Constitutional Court in February 2012 has officially decided that a child born outside of official wedlock also has a civil relationship with the father provided that the fatherhood can be proven scientifically or by a blood test.

Article 4(1) of The 2006 Citizenship Act provides Indonesian citizenship for any child who was born in Indonesian territory from stateless parents or parents whose nationalities are undetermined. However, no implementing regulation has been issued to exercise this right. If you are stateless and would like to obtain Indonesian Nationality for your child who was born in Indonesia, please contact UNHCR's Protection Intervention Unit or UNHCR's focal point in your residing area.



Registration of a new-born baby with UNHCR is mandatory, regardless whether your spouse is a refugee, Indonesian national, or non-refugee foreigner. Although for a baby of a refugee and an Indonesian citizen, UNHCR will not provide refugee status due to his/her Indonesian nationality. However, their registration with UNHCR as a dependent to a refugee is still important to ensure family unity in case of resettlement, temporary stay measures, or voluntary repatriation.



If you find difficulties in providing required administrative documents due to your asylum status, please contact UNHCR's Protection Intervention Unit or UNHCR focal point in your residing area for further assistance.

In a very rare case, on early 2018, Civil Registry of Bogor Regency acknowledged UNHCR's ID Card and Status Confirmation Letter to replace Passport and Stay Permit of a registered refugee. However, this case is subject to discretion of the authority.

IMPORTANT

If your child's right to have birth certificate has been denied, you can address your grievance to these offices:

**Indonesian Child Protection
Commission (Komisi Perlindungan
Anak Indonesia)
LBH Jakarta
UNHCR**



MIXED MARRIAGE

9

Mixed marriage between Indonesian national with a foreigner is allowed under the Marriage Act No.1/1974. There is no law that prohibits refugees to get married in Indonesia, whether between refugees, with Indonesian nationals or with non-refugee foreigners. To be legally acknowledged, marriage in Indonesia should be solemnized by recognized religions or faith and registered to Religious Affairs Office or Kantor Urusan Agama, or Civil Registry Office.

Registering your marriage with Indonesian authority is important for the legal protection of both spouses and the child born from the marriage, including regarding custody issue in case of divorce, death, or family separation. However, the registration might be an issue for you if you do not have any documentation.

Indonesian Marriage Act recognizes a heterosexual marriage that is acknowledged by the respective religious institution. Although being homosexual is not a crime, homosexual marriage is not recognized under Indonesian law. The Law also follows the principle of monogamous principle although polygamous relationship might be allowed under special circumstances.



HOW DO YOU REGISTER YOUR MARRIAGE?

To gain a legal recognition under Indonesian domestic law, the marriage has to be registered in the relevant institution. If you are getting married to Indonesian, the administrative documents required for registration of mixed marriage couple are as below (Source: PERCA Indonesia):

Indonesian Citizen

1. Statutory Declaration or Surat Pernyataan that she/he is unmarried with IDR 6,000 stamp and signed by RT, RW, and Head of Subdistrict (Kepala Kelurahan)
2. Attestation letter or Surat Pengantar of the domiciled RT/RW
3. Form N1, N2, and N4 from the Subdistrict Office (Kelurahan) where she/he is domicile
4. Agreement Form from both couple or Surat Persetujuan Mempelai (Form N3) Recommendation Letter or
5. Surat Rekomendasi from the Subdistrict Office where the marriage is planned to undertake if the Indonesian is not domiciled in the area
6. Two copies of ID Card (Kartu Tanda Penduduk or KTP), Family Card (Kartu Keluarga), Birth Certificate (Akta Kelahiran), and Diploma (Ijazah).
7. Copy of Vaccination Letter of Tetanus Toxoid for the bride.
8. Approval from Superior for Armed Forces.
9. Approval from the parents (Form N5) for bride/groom under 21 years old

Foreigner

1. Letter of Impediment from The Embassy of Country of Origin
2. Copy of Valid Passport
3. Copy of Valid Visa or Temporary Residence (KITAS, Kartu Izin Tinggal Terbatas)
4. Copy of Birth Certificate or Akta Kelahiran
5. Divorce Certificate for a divorcee
6. Photo of each person 2x3 and 3x4 with blue background for Islamic Marriage; or
7. Photo of the couple together with a red background for non-Islamic marriage.
8. All documents have to be translated to Indonesian by a sworn translator or legalized by your embassy in Indonesia.

Note: With the DG of Immigration Circular No. IMI.GR.03.02.0224 the Year 2014, Foreigner Registration Book, that was previously required to register the marriage, is removed. Therefore, you do not need to submit the Book any longer.



Both Indonesian and Foreigner

1. Marriage certification from the religious institution
2. Copy of Divorce Certificate or Akta Perceraian for a divorcee
3. Copy of Death Certificate or Akta Kematian of the previous spouse for a widow or widower.
4. Photo of each person 2x3 and 3x4 with blue background for Islamic Marriage; or Photo of the couple together with a red background for non-Islamic marriage. For Armed Forces, a uniform is required.

Registration of Marriage in Religious Affairs Office has to be initiated maximum ten days after the akad or Islamic Marriage solemnization.

REGISTRATION OF MARRIAGE BETWEEN REFUGEES

In Indonesia, marriage between foreigners can be registered in the Civil Registration office, with the requirements as mentioned above. Lack of documentation in both cases may cause administrative barriers to registering the marriage in Indonesian civil registration or religious affair office. You can record your marriage to UNHCR, albeit the legal protection from such registration may be limited to family unification during the resettlement process.

RELIGIOUS MARRIAGE IN INDONESIA

Being married through religious ceremony only is not automatically acknowledged legally before the marriage is registered to the respective office. It is not a crime to be unregistered, especially when the administrative requirements cannot be fulfilled. However, unregistered married does not have legal protection from the country.

CAN YOUR INDONESIAN SPOUSE SPONSOR YOUR VISA?

As long as the marriage is registered with the Civil Registry Office or Religious Affairs Office and you can meet the administrative requirements, you have the chance to apply for Temporary Residence (KITAS) or Permanent Residence (KITAP). Both Residences are issued by Immigration Authority.

As long as the marriage is registered with the Civil Registry Office or Religious Affairs Office and you can meet the administrative requirements, you have the chance to apply for Temporary Residence (KITAS) or Permanent Residence (KITAP). Both Residences are issued by Immigration Authority.

To apply for KITAS, you will need to apply for a Visa-317 by submitting:

1. Valid passport with minimum of 30 months of expiry if you intend to stay in Indonesia for a maximum two years, or 18 months of expiry if you intend to stay in Indonesia for maximum one year.
2. Copy of formal marriage certificate
3. e-ID Card and Family Card of the Indonesian spouse
4. Request and Guarantee Letters from the Indonesian spouse signed on IDR 6,000 stamp
5. Copy of Bank Account Statement (Buku Tabungan) of your Indonesian spouse

The Visa-317 will have to be taken in Indonesian Consular Service overseas (it does not need to be in your home country). You will have to withdraw your asylum with UNHCR to get Exit Permit Only (EPO) to do so. Your Indonesian spouse will have to submit the Administrative Documents to DG of Immigration and pay IDR 100,000 indicating which Consular you intend to collect the Visa. Upon approval, you will need to collect the Visa in person in the consular and pay USD 180 for the two years of expiry or USD 105 for the one year of expiry.



You can enter Indonesia legally with that visa, and you will have to report to local immigration office within 30 days after your arrival to convert the Visa-317 into KITAS and pay administration fee IDR 1,055,000 for two years of expiry. According to immigration SOP, the process of arranging a KITAS is one month.

Once your marriage turns two years, you can apply for Permanent Residence (KITAP). You can also convert your KITAS to KITAP. To apply for KITAP, you will have to submit these documentations:

1. Original copy and photocopy of your valid passport
2. Request letter from your Indonesian spouse signed on IDR 6,000 stamp
3. Attestation Letter of your domicile
4. Copy of your Marriage Certificate or Registration with Civil Registry Office if your marriage was undertaken overseas
5. Copy of your Indonesian spouse's valid ID Card
6. Copy of your Indonesian spouse's valid Family Card
7. Statement of integration, signed by you on IDR 6,000 stamp



To convert your KITAS to KITAP, you will have to submit your application to the immigration office where you domicile. The fee for KITAP is IDR 3,750,000 for five years of expiry. After ten years of holding a KITAP, you only need to report your presence, and no administration fee is required since then.

Although you have KITAS or KITAP, you will have to submit Multiple Re-Entry Permit (MREP) otherwise your KITAS/KITAP will be canceled once you leave Indonesia. The duration of MREP depends on the expiry of the KITAS/KITAP, maximum of 2 years. The cost to arrange a two years MREP is IDR 1,750,000.

Under Article 61 of Immigration Act No.6/2011, the KITAS or KITAP holder who was sponsored by Indonesian spouse can work and/or perform an economic activity to support him/herself or his/her family. Thus, to access formal employment with a legal business entity, IMTA and RPTKA are still required (further information, please refer to Chapter on Employment) based on the Ministerial Regulation on Labor and Transmigration No. 12/2013 on Procedure of Employing Foreign Worker and Ministerial Regulation of Law and Human Rights No.27/2014.

WILL YOUR MARRIAGE STATUS IMPACT YOUR RESETTLEMENT PROCESSING?

UNHCR takes precaution measures to ensure every marriage registered with UNHCR does not have harmful or exploitative motives, for instance for resettlement. For the sake of family unity, UNHCR will also resettle your spouse and children including Indonesian spouse and children, if you are identified and eligible for resettlement. If you are married or conceal your marital status for the sake of resettlement, UNHCR might consider it as a fraud and your resettlement processing will be put on hold indefinitely. Depending on the gravity, you might be subject to criminal prosecution.

IMPORTANT

Should you require legal advice,
please contact:
UNHCR
Dinas Kependudukan dan Catatan
Sipil Jakarta Pusat



DETENTION AND FREEDOM OF MOVEMENT

10

In Indonesia, every person irrespective of his/her citizenship has the right to liberty of person. Human Rights Law No. 39/1999 encompasses the right not to be unlawfully or arbitrarily detained. Meanwhile, as to the freedom of movement—or mobility rights—some restrictions do apply to the refugees in the country.

WHAT CONSTITUTES DETENTION?

Detention is any condition whereby a person is being confined to a certain place, including but not limited to immigration detention centers and detention offices, and under restraints which prevent that particular person from living with his/her family or carrying out his/her normal activities shall amount to detention. There are two bases of detention: detention for the suspects or defendants during criminal processes; and detention as part of administrative measures for violators of immigration law. Seeking asylum cannot be simply considered as a criminal offense or violation of immigration law. Therefore, it should not be the basis for detention.

However, in practice, immigration may detain refugees who violate the regulation applicable in their particular area of domicile despite the absence of legal justification.

CAN I TRAVEL TO OTHER CITIES OR PROVINCES IN INDONESIA?

If you want to travel to other cities or provinces, you must notify the Immigration office in your area of domicile. And if you are under the care of some organizations, they may require you to follow their rules as well as following the immigration rules.

Even though the government has recognized your UNHCR ID card as your identity card, the purpose of buying transportation tickets for traveling to other provinces may remain a challenge.

However, in practice, immigration may detain refugees who violate the regulation applicable in their particular area of domicile despite the absence of legal justification.

WHAT IS NEW IN THE LAW?

Based on the Presidential Regulation No.125/2016 and the Directorate General of Immigration Circular No. IMI-UM.01.01-2827 dated 30 July 2018, refugees shall be placed in shelters and not immigration detention centers.

For those who have just arrived in Indonesia, the Immigration Officers must coordinate with UNHCR for your status determination. If you are brought to an immigration detention center, it is supposed to be only for recording your identity and documents. Afterward, you will be transferred to shelters or to live independently. However, in some cases, the Immigration may require you to have a personal guarantor.

If you are an asylum-seeker/refugee under IOM care but are still detained in immigration detention centers, as per the Circular Letter No. IMI-UM.01.01-2827, you will be transferred out to IOM community accommodations as soon as the room is available.

If you are an asylum-seeker/refugee living independently, you should not surrender yourself to the immigration detention centers. As per the Circular mentioned above, the Immigration officers will not admit you anyway. There will be no more reigration by government to refer you to IOM if you are not yet under IOM care

UNDER WHAT CIRCUMSTANCES CAN YOU GET DETAINED IN IMMIGRATION DETENTION CENTERS OR OFFICES?

1. If your UNHCR identification is not issued by UNHCR Indonesia office. Please inform UNHCR upon your arrival in Indonesia for verification of your status with the UNHCR office that issued your ID;
2. If you receive a final rejection from UNHCR. Final Rejected Persons are to be placed in IDCs for either voluntary return or deportation;
3. If you fail to conduct monthly reporting to the IDC. Failure to do so three times in a row without an acceptable reason will cause you to be detained; and
4. If you commit acts against prevailing immigration laws and regulations or public safety and order.

IMPORTANT

If you are detained, you (or your lawyer) are entitled to ask the reason for your detention and request a copy of your Detention Order or Surat Perintah Penahanan. If the Immigration does not entertain your request, you can report it to the Ombudsman of the Republic of Indonesia.



WHAT CAN YOU DO IF YOU ARE DETAINED?

Under the Immigration Law, you have the right to file an Objection Letter addressed to the Ministry of Law and Human Rights. According to the DGI Implementing Guidelines No. F-336.IL.02.10 Year 1995 on Guidelines on Filing Objection towards Immigration Measures, the letter must be duly signed on stamp duty and must include:

1. Copy of your UNHCR ID;
2. copy of your Detention Order
3. the reason for your objection and supporting evidence
4. Power of Attorney (if your lawyer files the objection letter).

You should send the letter to the immigration officer issuing your Detention Order. Using proper Bahasa Indonesia will be beneficial for you since the officer will easily understand it. However, please note that you can only file the objection letter no later than three days after the date of your Detention Order. And this objection does not in any way postpone the detention. In some cases, Immigration may release you if you have a personal guarantee from an Indonesian citizen or organization.

IMPORTANT

Please contact the following service providers immediately should you face detention:
SUAKA
UNHCR
LBH Jakarta
Ombudsman of the Republic of
Indonesia



RESPONSIBILITIES AND OBLIGATIONS OF REFUGEES IN INDONESIA

International and domestic legal frameworks give rise to both rights and responsibilities. Refugees in Indonesia, like all individuals, have duties and obligations as rights holders.

International law affirms that refugees are obligated to observe the laws and regulations of their host countries (1951 Refugee Convention, Article 2; New York Declaration, Paragraph 39)

Refugees in Indonesia must respect and adhere to the rules and laws of Indonesia. Indonesian laws and regulations bind refugees and Indonesians alike. Refugees are not above the law. This means that refugees, like Indonesian nationals, are subject to prosecution for violating these laws.

As a refugee in Indonesia, you must comply with all the prevailing laws and regulations. In particular, please remember that Indonesian law prohibits the following:

1. Activities that involve drugs or prohibited substances;
2. Sexual harassment or abuse, including domestic violence;
3. Other acts of violence;
4. Producing or using fraudulent documents;
5. Operating a motored vehicle without a license;
6. Disturbance of public order.

You have the right to demonstrate, and freedom of peaceful assembly, (see chapter Freedom of Association). However you should not be involved in protests that are not peaceful or cause injury either to yourself or to others, or damage to public or private property.

Please note that the list above is by no means exhaustive. There may be different rules applicable in different areas. It is also important that you respect local customs and codes of conduct applicable in the area where you live. Make sure that you are aware of the rules applicable in your area. You are welcome to approach UNHCR or Legal Aid Institute in your respective areas for further information on the applicable rules and regulation.

IMPORTANT CONTACTS

SUAKA Secretariat

c/o LBH Jakarta Office, LBH Jakarta Building, 2nd floor. Jl. Diponegoro No. 74, Menteng, Central Jakarta, DKI Jakarta, Indonesia 10320 | suaka.secretariat@gmail.com

UNHCR

Menara Ravindo 14th floor, Jalan Kebon Sirih Kav.75, Jakarta Pusat I (021) 29643602 | insja@unhcr.org | Health Officer Hotline Number: 0811 8161 511

LBH Jakarta

Jalan Pangeran Diponegoro No.74, Lantai 2, Menteng, Jakarta Pusat, Indonesia | lbhjakarta@bantuanhukum.or.id | 021 314 5518

Jesuit Refugee Service Indonesia

Gang Cabe DP III, No.9, Puren, Pringwulung, Sleman, Yogyakarta 55283 Indonesia | +62 274 517 405; +62 274 543 824 | indonesia@jrs.or.id

YLBHI

Jalan Pangeran Diponegoro No.74, Lantai 3, Menteng, Jakarta Pusat, Indonesia | (+62)21 - 3929840; (+62)21 - 31930140 | info@ylbhi.or.id

Ombudsman of the Republic of Indonesia

Jalan H. R. Rasuna Said kav. C-19 Kuningan, Jakarta Selatan (021) 22513737 | pengaduan@ombudsman.go.id

DUKCAPIL Jakarta Pusat

Jl. Tanah Abang I No. 1, Blok. C, RT.II/RW.8, Petojo Selatan, Gambir, RT.II/RW.8, Petojo Sel., Gambir, Kota Jakarta Pusat, Daerah Khusus Ibukota Jakarta 10210

Indonesian Child Protection Commission (KPAI)

Jl. Teuku Umar No. 10-12, Gondangdia, Menteng, Jakarta Pusat 10350 +62 2131901556 | info@kpai.go.id or humas@kpai.go.id

Pro Bono Legal Service Providers: <https://goo.gl/MKHtqw>

IOM: <https://indonesia.iom.int/id>



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