OVERVIEW

Indonesia is not a state party to the 1951 UN Convention Relating to the Status of Refugees or its 1967 Protocol. Asylum seekers and refugees (including stateless refugees) in Indonesia face difficulties staying in the country in the absence of any domestic legal frameworks for their protection. While the Government of Indonesia upholds the customary international law principle of *non-refoulement*, the continuing detention of asylum seekers and refugees (especially children and detainees with specific needs), including those whose cases are being processed by UNHCR, is of particular concern.

One positive development is the recent Presidential Decree signed on 31 December 2016, which confirms Article 28G of the Indonesian Constitution and Article 25 – 27 of Law No. 37 of 1999 on Foreign Relations. In particular, the Presidential Decree upholds the international legal definition contained within the 1951 Refugee Convention and provides general permission for government ministries and relevant agencies to allocate resources to ensure refugee protection; however, more clarification is needed regarding how local government agencies will begin implementing the Presidential Decree.

Under its mandate, UNHCR in Indonesia continues to provide protection to refugees and asylum-seekers in a number of urban locations through registration, refugee status determination (RSD), documentation and processing for resettlement and repatriation where possible. Local and international NGOs, IOM and UNHCR work together to provide humanitarian assistance, strengthen the capacity of local authorities and try to enhance the protection environment.

KEY STATISTICS

- As of December 2016, a total of 14,405 individuals were registered with UNHCR in Indonesia, including 6,578 asylum seekers and 7,827 refugees. Of these, 3,821 are female and 10,584 are male. The total includes 3,768 children, 637 of whom are unaccompanied or separated children.
- The main countries of origin are Afghanistan (50%), Somalia (10%), Myanmar (7%), Iraq (6%), Iran (3%), Nigeria (5%), Sri Lanka (4%) and Palestine (3%).
- As of the end of December 2016, 1,271 refugees departed for resettlement in a third country, 1,217 refugees had resettlement applications submitted, and a further 1,368 refugees were awaiting a decision by resettling countries.

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1 UNHCR Indonesia, Monthly Statistical Report, December 2016
AREAS OF CONCERN

1. Refugee Status Determination (RSD)

UNHCR conducts refugee status determination (RSD) procedures in Indonesia on behalf of the Indonesian government. Many asylum-seekers arrive in Indonesia lawfully through a 30-day visa exemption, however, are then unable to apply for an extension to their visa while in Indonesia, thus overstaying their visa and violating Indonesia’s immigration laws. Cards are issued by UNHCR to recognised refugees who have undergone the RSD process, and these cards provide some semblance of protection – for example, they usually protect holders against arrest by local law enforcement officers. Officially, registered asylum seekers and refugees are only detained if they are found in areas that are designated by the immigration department as being ‘off-limits’ (e.g. ports, beaches or transport hubs), or if they fail to comply with specific reporting conditions. However, in reality many have been subjected to arbitrary arrest and detention in the absence of adequate protection, and at the hands of people who see an opportunity to extort money from vulnerable people.

As at the end of December 2016, 2,271 cases of 3,224 individuals were recognized as refugees. A further 240 cases of 404 individuals were found not to have valid claims.\(^2\) UNHCR Indonesia has only one office located in Jakarta, but does have Eligibility Officers stationed in offices of the International Organization for Migration (IOM) in Makassar, Medan, Pontianak, Kupang, Surabaya, and Tanjung Pinang. Nevertheless, refugees and asylum seekers living outside of these areas face significant challenges in accessing UNHCR and having their refugee claim determined. For example, asylum seekers in Jayapura (in Papua, the most easterly province in Indonesia and a 5-hour flight from Jakarta) are enduring considerable waiting times, as UNHCR Indonesia currently does not have the budget for regular visits to the outlying provinces of the country.

Once recognised by UNHCR, refugees are submitted for resettlement to ‘third countries’. Previously, many refugees were resettled in Australia, however, asylum seekers and refugees who registered with UNHCR on or after 1 July 2014 are no longer eligible for resettlement in Australia dramatically reducing the exit options for refugees and asylum seekers in Indonesia. Over 8000 asylum seekers have registered with UNHCR Indonesia after 1 July 2014 and thus Australia’s policy changes have contributed to the increased number of refugees left in limbo in Indonesia and without a durable solution to their situation. The Indonesian authorities are now having to respond to the long-term presence of asylum seekers and refugees, rather than merely their transit through the archipelago.\(^3\)

2. Detention

Conditions in immigration detention facilities vary widely across the country (dependent largely on the resources available and the discretion of the officer in charge of each centre) and continue to be of concern. There are 13 main immigration detention centres located across the archipelago, with no consistency in policies or procedures for regulating conditions or Standard Operating Procedures (SOPs). There are particular concerns regarding overcrowding, the unsanitary environment, lack of basic necessities (including food), incidences of violence and abuse, and lack of access to legal services in some facilities.\(^4\) IOM and the Indonesian Directorate of Immigration (under the Ministry of Law and Human Rights) are responsible for managing immigration detention facilities. Due to overcrowding and the fact that several immigration detention facilities have surpassed their capacity, about 34% of current detainees are being accommodated in temporary detention facilities (including hotels) under the supervision of the Immigration department.\(^5\)

\(^2\) UNHCR Indonesia, Monthly Statistical Report, December 2016  
\(^5\) UNHCR Indonesia, Monthly Statistical Report, December 2016
As of December 2016, there are 4,344 individuals (30% of the total population of refugees and asylum seekers registered with UNHCR) in immigration detention facilities, including 2,437 asylum seekers and 1,906 refugees, of whom 595 are women and 991 are children (with 108 being unaccompanied or separated children). The number of children in immigration detention facilities has dropped considerably since the opening of a ‘shelter’ for UASC in Makassar in December 2015, and several hundred people being released from detention and placed in IOM-run community accommodation facilities.

There are currently no provisions to allow for refugees in immigration detention facilities in Indonesia to be released on bail, although UNHCR does have the capacity to secure the release from detention of families and unaccompanied children by submitting a letter and attempting to accelerate RSD in particularly vulnerable cases. Despite the serious overcrowding and poor conditions in immigration detention facilities, in 2014 and 2015 nearly 4,000 refugees and asylum seekers surrendered themselves to immigration detention authorities due to their inability to support themselves and Indonesia’s prohibition on the right of refugees and asylum seekers to work. In 2016, 788 individuals have surrendered themselves to immigration authorities, seeing this as the only way to obtain basic food and shelter and a referral to the IOM-run facilities.

REGIONAL OPPORTUNITIES FOR CHANGE

At present there is a rare moment of opportunity for alignment of states’ interests throughout SEA:

i) Possibility of voluntary repatriation of a large number of refugees in SEA (Thai-Burma border);

ii) Thailand: Has passed a Cabinet Resolution to develop an effective screening mechanism to distinguish refugees from economic migrants;

iii) Thailand: Commitments made by Prime Minister Prayut Chan-o-cha in New York also included an end the practice of immigration detention of refugee and asylum-seeker children.

iv) Malaysia: pilot project on work rights for 300 Rohingya refugees. Stated plans to extend to 56,000 registered Rohingya refugees; and

v) Indonesia: signed new Presidential Decree on Refugees.

vi) Non-Rohingya refugees from Myanmar make up the majority of refugees in the region. Given the ongoing changes inside Myanmar, there may be a possibility for large-scale voluntary repatriation in the future for this group. They constitute about 64% of the entire refugee population in the region.

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6 UNHCR Indonesia, Monthly Statistical Report, December 2016