



PERMANENT MISSION
OF THE REPUBLIC OF INDONESIA
TO THE UNITED NATIONS, WTO AND
INTERNATIONAL ORGANIZATIONS IN GENEVA

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The Permanent Mission of the Republic of Indonesia to the United Nations, WTO, and Other International Organizations in Geneva presents its compliments to the Secretariat of the Special Rapporteur on the human rights of migrants at the Special Procedures Branch of the Office of the High Commissioner for Human Rights (OHCHR) and with reference to the letter from the Special Rapporteur 16 March 2020, has the honour to convey the Government of Indonesia's response to the questionnaire on "ending immigration detention of children and seeking adequate reception and care for them".

The Permanent Mission of the Republic of Indonesia to the UN, WTO, and Other International Organizations in Geneva, avails itself of this opportunity to renew to the Secretariat of the Special Rapporteur on human rights of migrants the assurances of its highest consideration.

Geneva, 21 April 2020



**Secretariat of the Special Rapporteur on the human rights of migrants
Special Procedures Branch
Office of the High Commissioner for Human Rights**

Geneva

Questionnaire of The Special Rapporteur on The Human Rights of Migrants: Ending Immigration Detention of Children and Seeking Adequate Reception and Care for Them

- 1. Please provide information on any legislation on policy that prohibits or restricts the use of immigration detention of children and their families in your country. Grateful if you could kindly submit the original text of the legislation or policy, accompanied by an English translation if it is in a language other than English, French or Spanish.**

Recently, immigration detention centers in Indonesia are no longer being used to shelter refugees, including refugee children. In the past, the centers were used as shelters for asylum seekers and refugees before being transferred to community housing. Although very rare, this sometimes included refugee children, until appropriate assistance could be delivered.

Indonesia is not a signatory to the 1951 Refugee Convention. Nevertheless, based on humanitarian and human rights considerations, the Government of Indonesia issued Presidential Regulation No. 125 of 2016. This regulation provides the definition for refugees from overseas ("Refugee") and regulates the placement and temporary shelters for refugees. The regulation sets guidelines for responses in emergency situations, provision of shelter, realization of basic needs and the strengthening of local government capacities. The Regulation also emphasizes the importance of paying particular attention to the special needs of refugee children as well as the sick, elderly, and refugees with disabilities. This regulation is a *lex specialis* to the Law No. 6 of 2011 on Immigration. Based on Article 27 of Presidential Regulation No. 125 of 2016, refugee children are also considered to be part of vulnerable group, and as such, they are qualified to receive special care arrangements.

Further, Indonesia has issued a policy that refugees, including children, can no longer be detained in the immigration detention center. This policy is stipulated in the Circular Note of the Directorate General of Immigration, Ministry of Law and Human Rights, on returning the function of detention center for its initial purpose.

Note:

- Detention is regulated under Law No 6 Year 2011 on Immigration and further regulated in operational regulations namely Ministerial Regulation and Directorate General of Immigration Regulation.
- The definition of detention is stipulated under Article 1(33) of the Law on Immigration: Immigration Detention House shall mean a technical implementing unit that carries out an Immigration Function as temporary shelter for Foreigners who are imposed with Immigration Administrative Action.
- The definition of detainee is stipulated under Article 1(35) of the Law on Immigration: Detainee shall mean Foreigner who have obtained detention decree from the Immigration Officer and occupies the Immigration Detention House or Immigration Detention Room .

- 2. Please provide information on existing non-custodial alternative to immigration detention of children in your country (e.g. community-based reception solution) and elaborate how these alternatives effectively enhance the protection of the rights of migrant children and their families.**

In 2018, the Government of Indonesia issued a policy that detention centers will no longer be used to shelter refugees including refugee children. Consequently, refugees shall either live in shelters funded by the IOM and UNHCR, live independently, or in shelters provided by the local government. Under Indonesian regulation, all refugees are obliged to regularly report their condition to the nearest immigration detention center.

Children who are with their families live in either IOM accommodations, independently under UNHCR / NGOs care, or temporary government shelters, for example, the temporary

shelter in Kalideres. Unaccompanied or separated children live in either IOM Community Housing, group homes provided by the UNHCR and its implementing partners, or live independently.

Facing dangerous situations in their countries of origin and the relatively low chance of being resettled in a third country, refugees could live in Indonesia between 5-7 years and may expect to stay longer. Reliance on assistance therefore become larger, including for refugee children. Therefore, the provision of temporary shelters, basic needs, and access to health care are essential parts in enhancing the protection of assylum seeker/refugee rights.

3. Please provide information on any existing good practices or measures taken in your country to protect the human rights of migrant children and their families while their migration status is being resolved, including inter alia their rights to liberty, family life, health and education (e.g. by ensuring effective access to inter alia adequate reception, healthcare, education, legal advice, family reunion)

Currently Indonesia is hosting 13.586 refugees coming from 42 countries (UNHRC data as of February 2020). As a non-state party to the 1951 Convention and its 1967 Protocol, Indonesia has been going the extra mile and beyond its capacity and international obligation in helping refugees. The Indonesian Government has also implemented policies that are in line with humanitarian and human rights principles and international humanitarian and human rights law.

In implementing these policies, the Government of Indonesia has provided shelters, basic needs, and access to health care for refugees in need. The Government has also established a Refugee Task Force, consisting of representatives of relevant ministries and regional government to better address the complex issues pertaining to refugees in Indonesia.

Since July 2019, the Government of Indonesia, through a Minister of Education Circular Note, has enacted a policy to facilitate free access for refugee children to basic and secondary education. This policy ensures the fulfillment of the rights to education for 2.718 refugee children, 20% of the total number of refugees who are currently in Indonesia, and in line with the Convention of the Rights of the Child, to which Indonesia is a State Party.

The Government of Indonesia is working closely with UNHCR and IOM in ensuring all the refugee children in Indonesia are enrolled in education system. Some of the additional initiatives to better assist the refugee children in their education, such as counselling and Indonesian language training, are also being employed. The implementation of this program is closely monitored by and involving the Indonesian Commission for the Protection of Children which is also a member of the Indonesian Refugee Task Force.

In addition, since 2009, through the Handayani Social Rehabilitation Center for Children Needing Special Protection or Child Social Protection House (RPSA) in Jakarta, the Government has provided social rehabilitation services for child refugees. The services provided are:

- protection in safe houses;
- provision of basic needs (food, health checks);
- introduction of the social environment, and interactions with Indonesian children who also receive services at the RPSA;
- involving children in daily activities (personal hygiene, skills and recreation activities in accordance with children's interests);
- increase the motivation and expectations of children, including through counseling for children who have psychosocial problems; and
- facilitate communication between children and families with families in the country of origin by telephone.

On healthcare, Indonesia provide access for refugee children and their families healthcare facilities ranging from Primary Healthcare Center/*Pusat Kesehatan Masyarakat* (Puskesmas) to government-owned hospitals, at the same cost as Indonesian citizens.

The Government of Indonesia in cooperation with UNHCR, IOM and NGOs also provides access to refugee children and women who are victims of domestic violence by providing legal consultation, psychological counselling, referral to relevant agencies including the police, court, etc.

Various NGOs that has worked with the Government of Indonesia, including the Jesuit Refugee Service (JRS), and Suaka which focuses on legal assistance for refugees. There are also NGOs that pay particular attention to the education of child refugees, such as the Cisarua Refugee Learning Center, Roshan Learning, and the Sunrise Refugee Learning Center from the Sandya Institute.

4. Please indicate any challenges and/or obstacles in the development and/or implementation of non-custodial alternatives to immigration detention of children and their families.

The Government of Indonesia is facing several challenges to protect the best interest of child in context of migration child refugees, including in the development and/or implementation of non-custodial alternatives to immigration detention of children and their families. These challenges include:

- The decreasing commitment of the international community in fulfilling their obligations to provide comprehensive and sustainable solutions for child refugees, especially resettlement or voluntary repatriation.
- The decreasing trends of financial support, especially to international organizations such as UNHCR and IOM. This, in turn, limits the capacities of such organizations to carry out services to child refugees in countries with no specific capacities to do so, like Indonesia.
- Limitation of funding for handling refugee issues in Indonesia, since Indonesia is not a party to the Refugee Convention 1951 and its Protocol 1967.

5. What support could other stakeholders (other than your Government) provide to strengthen the development and/or implementation of non-custodial alternative to immigration detention of children and their families that enhance the protection of their rights?

The complexity of current global migration cannot be handled by certain countries or regions alone. Support from the international community remains essential to the protection of migrant and their family specially refugee children, including in Indonesia. To this end, we need to strengthen multilateralism and cooperation based on burden sharing principle through various initiatives among others the Bali Process, Sustainable Development Goal, Global Compact on Migration, and Global Compact on Refugees.

In this context, Indonesia continues to encourage nations who are State Party to the 1951 Convention on Refugee to fully implement their commitment towards their international obligations, and strive hand-in-hand for the protection of refugees children wherever they are. The supports can take many forms including through sharing of expertise, information, and resources, as well as provision of funding.

The Government of Indonesia also continues to encourage the contribution of NGOs in enhancing the protection of the rights migrant and their family including refugee children.