



**Situation Report: Legal Empowerment Efforts Towards Refugees in Indonesia (Input for The Upcoming Report on Legal Empowerment by UN Special Rapporteur on the Independence of Judges and Lawyers)**

**(Reported Submitted and Based on the Legal Empowerment Efforts of Perkumpulan SUAKA<sup>1</sup>)**

**Overview of Refugees Situation in Indonesia**

1. Indonesia is a home country for 12.805 registered refugees and asylum seekers under the United Nations High Commissioner for Refugees Indonesia (**UNHCR Indonesia**)’s database.<sup>2</sup> Of those 12.805 refugees, most of them are identified as Afghanistan refugees (6.091), Somalian refugees (1.309), and Myanmar refugees (1.120). Apart from these three largest refugee communities identified, Indonesia also hosts other 48 Country of Origins of refugees;
2. Indonesia thus far is not a ratifying country of Convention Relating to the Status of Refugees of 1951 (**Refugee Convention**), which implies to the unrecognition of refugees’ specific protection related to human rights as stated in those Convention. However, human rights of refugees staying in Indonesia are protected under Law No. 39 of 1999 Regarding Human Rights (**Human Rights Law**) and other core United Nations (**UN**) human right treaties ratified by Indonesia. These protections are implemented on the basis of non-discrimination principles of human rights application and manifestation of the phrase “every person” used in those legal bases. In addition, the Human Rights Law also recognized every person’s right to seek political asylum as it is stated in Article 28 (1);
3. Related to national level specified laws related to refugees, Indonesia has passed the Presidential Decree No. 125 of 2016 Regarding the Management of Refugees (**Presidential Decree 2016**). This Decree however, did not mention any rights protected as refugees in Indonesia. Presidential Decree 2016 only focused on technical aspects of handling the refugees that are identified within

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<sup>1</sup> Perkumpulan SUAKA or “SUAKA” is a civil society organization established in 2012. SUAKA focused on enhancement of refugee rights protection in Indonesia towards legal aid, legal empowerment, campaign, and advocacy works.

<sup>2</sup> UNHCR Indonesia Monthly Statistical Report, January 2023.

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Indonesian territory. There is also Directorate General Immigration Law No. IMI-0352.GR.02.07 of 2016 which states a series of obligations of refugees while staying in Indonesia, including the obligation to respect the law which comprises the prohibition for them to have an occupation.

#### **Refugees and Vulnerabilities to Legal Problems**

4. Refugees as a group have been identified as a vulnerable group by global stakeholders. This vulnerability has been identified by two categories of vulnerability which are the “situational vulnerability” (vulnerabilities related to their situation *en route* and in countries of destination) and “individual vulnerability” (particular risk attached to refugees as individuals)<sup>3</sup>;
5. Of those related to these vulnerabilities, the main focus of vulnerability has been discussed regarding their threat and danger that happened in their origin Country which forced them to move, dangerous roads that they have to take *en route* to the destination Countries, and potential of discrimination that awaits them in the destination Countries due to their background differences. It is important to note also that refugees can also be exposed to what we identified as **legal vulnerabilities**;
6. Legal vulnerabilities of refugees are defined as involvement of refugees in any legal events due to their lack of awareness and unequal position within society which resulted in major challenges to access justice;
7. Legal vulnerabilities can be identified due to many factors. First is regarding language barriers. There might be some miscommunication within refugees or with local communities which led them into legal problems. Language barriers are also identified by legal apparatus of Indonesia (i.e Police) specially related to any reports made from refugees towards them. This at some conditions caused a prolonged process which created further uncertainty for refugees seeking justice. Language barriers are also identified as one factor related to lack of *pro bono* lawyers available for refugees as large numbers of these *pro bono* lawyers lack the capacity to speak refugees’ local languages or international languages mainly English;

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<sup>3</sup> UNHCR’s Perspective on “Migrants in Vulnerable Situations”, 2017, <https://www.ohchr.org/en/migration/migrants-vulnerable-situations>.

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8. Second, legal vulnerabilities are also identified as there is a lack of legal information addressed with English language or refugees' community languages. Laws or other legal information documents are usually addressed by Bahasa and Governments/Legal Apparatus is yet to conduct comprehensive or large numbers of legal information related sessions for refugees in all areas. Therefore, this further creates confusion and lack of knowledge regarding refugees' awareness related to written law in Indonesia. This is also related to the language barriers issues mentioned above;
9. Third, Indonesian lawyers including those who are identified as *pro bono*/public interest lawyers have minimum awareness regarding refugees and their needs to adequate and affordable legal services. Refugees are not allowed to work and therefore large numbers of refugees are living in difficult economic conditions. This implies to their lack of ability to obtain adequate legal assistance from lawyers. Therefore, the presence of *pro bono* assistance is very important for refugees facing legal issues. However, based on SUAKA's analysis, there are a large number of these lawyers that are not yet aware regarding this necessity and not prioritizing legal services for refugee communities. This is also in line with the overview situation in Indonesia as refugees' issues are still not considered as important issues on all aspects. This situation exposed refugees to incomprehensive legal support for them when they are seeking justice;
10. Paralegals should be one of the key solutions to address these vulnerabilities. Paralegals have held important roles in the spreadness of legal awareness and assistance on legal advocacy. However, challenges are still also identified. Indonesian paralegals are also one of the actors identified with lack of awareness regarding the refugee issue. Further, SUAKA also created a group of trained community-based refugee paralegals to fill this gap. However, in accordance with Law and Human Rights Ministry Regulation No. 3 of 2021, it is stated that paralegals acknowledged by the State are those that are Indonesian citizens. Therefore, there is a lack of legal recognition for these community-based refugee paralegals that might imply their works with their respective refugee communities.

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11. SUAKA through legal aid assistance, legal empowerment programs, and public awareness activities is still consistently conducting efforts to reduce this legal vulnerability. This also targeted to increase access to justice for refugees.

#### **Refugees, Legal Empowerment Efforts, and Access to Justice**

12. As discussed above, to address this vulnerability and to increase legal empowerment of refugees, SUAKA has conducted important efforts throughout the years. Community based refugee paralegals as also mentioned previously is one of the crucial programs conducted thus far. In 2019, 2020, and 2022, SUAKA conducted paralegal training which produced more than 30 community-based refugee paralegals in total representing their respective communities. This paralegal training and community-based refugee paralegals networks aimed at strengthening refugees' awareness regarding legal rules applicable to them, increasing their ability to use the law in order to accessing justice and advanced human rights protection, and also to increase their contribution in the shaping of the law and human rights protection towards them as communities. Community based refugee paralegals is also a great implementation of community-based approach on refugee protection in Indonesia;
13. Community based refugee paralegals were trained by human rights-based curriculum with basic materials discussed to increase their skills in legal and human rights advocacy works. Post training, paralegals trained will return to their respective communities and will assist members of communities on legal matters and/or their efforts to advocate for more human rights protection;
14. As a result, SUAKA has documented many best practices of the role of the community-based refugee paralegal towards community. Those best practices identified are the ability of community-based refugee paralegals to write chronologies needed to report to any legal aid organization and needed on reports to the Police in case of criminal legal issues. Further, there are also best practices of community-based refugee paralegals assisting their community members on reporting to the Police. This assistance identified is meant to interpret and to gather witness, information, and other legal evidence to support the report. There are paralegals that also conducting information distribution towards their community to increase legal awareness;

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15. However, this community-based refugee paralegals program is still facing major challenges. One of the major challenges is related to resources to conduct national-level paralegal training. Thus far, our training has been implemented towards refugees living in the Jakarta surrounding area as there are some lacks of resources to support refugees living outside the Jakarta surrounding area to join the training physically. If then resources is not the problem, refugees is also subject to strict immigration control which create a difficult situation for them to move to other City which in this context is to contribute to joined the training;
16. Apart from community-based refugee paralegal networks, SUAKA also conducts legal empowerment through legal information distribution activities. These activities conducted are legal info sessions, “Know Your Rights” handbook, Self-Help Kit related to Refugee Status Determination process, legal opinion, and Frequently Asked Questions document addressing common legal issues within refugee communities;
17. Legal empowerment is also related to access to justice. As one of our works, SUAKA has conducted structured legal aid for refugees to assist refugees in accessing justice through the legal process. To complement our work, we conduct a standard database to document every refugee legal problem assisted by SUAKA. From our documentation, there have been 274 cases reported by refugees regarding their legal problems to SUAKA. We categorized these cases into three categories; Refugee process issues (Refugee Status Determination, voluntary repatriation, and resettlement), domestic law implementation, and human rights violation;
18. Legal assistance has been conducted in relation to litigation and non-litigation processes. This legal assistance has been manifested by varied works. Comprehensive coordination with related stakeholders (i.e international organizations and government bodies) to provide support, referral to local/specified legal aid organizations, legal opinion making, legal consultation, and even legal litigation assistance already being conducted to assist refugee communities in need. Those forms of work are precisely faced with challenges. Language barriers and lack of awareness related to legal actors as mentioned in the previous section has been repetitively identified. In addition, as a lack of resources identified, SUAKA also faced challenges in assisting refugees in Jakarta

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surrounding areas as we don't have lawyers connected to SUAKA outside Jakarta. This has been mitigated by referral mechanism made between related legal aid organizations;

19. Related to litigation assistance in Court, challenges are also identified based on our experiences. Although it is similar to challenges regarding legal empowerment as a whole, problems related to language differences still occur. This challenge occurs with the additional fact that there is still a lack of sworn translators within the legal environment of Indonesia that has the ability to speak the original language of some of the refugee communities in Indonesia. Based on our experiences, SUAKA then invited a community-based interpreter to help interpret in front of the Court. This shows that the technical legal system here in Indonesia still has room for development in terms of interpretation mechanisms. Especially those that are sworn and can have more legal acknowledgement by the Indonesian legal system. This challenge is more highlighted as it is occurring in the more advanced process of access to justice which is in the Court process. Language barriers in this context could create a bolder barrier for refugees. Apart from it, lack of awareness from Judicial Bodies regarding refugees' issues is still similar compared to general overview of local communities regarding refugees. Therefore, through Court litigation like these is also aimed at amplifying refugees' vulnerable issues and to strengthen local communities' awareness in order to gain more allies and connections in refugee protection works in Indonesia.
20. Although there are identified best practices, more participation and policy reforms needed to be conducted by all related stakeholders. Legal empowerment of refugees is crucial for their resiliency and comprehensive empowerment as a community in Indonesia. There are some important recommendations and inputs submitted by SUAKA in the following section.

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## **Recommendations and Inputs for Upcoming Report Regarding Legal Empowerment Related Refugee Situations in Indonesia**

21. Based on those summaries of situation regarding refugees and legal empowerment efforts, SUAKA humbly submit our recommendations and inputs for the upcoming report to:

- a. Focus on increasing participation from all stakeholders towards legal empowerment for vulnerable groups. This participation must include comprehensive participation from States as a main duty bearer of human rights protection. Participation are those conducted in collaboration with civil society groups in conducting structured legal empowerment efforts;
- b. Increased participation and legal empowerment can also be supported by policy reform. SUAKA are urging for the report to focus on policy and legal reform towards all states related to more inclusive legal and policy frameworks which includes all individuals without exception. This can be achieved through ratification of related international treaties and revision and production of new legal frameworks with human rights approach conducted;
- c. Point out regarding recognition of key members of the communities related by comprehensive legal acknowledgement of their roles in legal empowerment efforts. Recognition may increase appreciation and motivation towards communities which targeted to pitch more members of the community to participate in legal empowerment efforts;
- d. Point out regarding the importance of judges and lawyers as key legal actors in the legal empowerment efforts within communities. This importance are aimed to increase role implementation to assist vulnerable communities to increase their legal capacities;
- e. To urge the Governments to provide a legal system that supports legal empowerment and access to justice. Forms of legal system and legal regulations that are important is related to systemic supports from States to create inclusive and reachable legal aid

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assistance, inclusive legal actors' implementation and contribution, legal system that are includes the necessity of vulnerable groups;

- f. Mention the inclusiveness of legal empowerment efforts which also includes the role of communities itself on all stages of legal empowerment. This is also aimed to amplify the communities' necessities and voices and to also align the legal empowerment efforts related to their necessities.

### **Closing Statements**

22. Thus, this submission was kindly reported by SUAKA. This report is mainly based on our works as a civil society organization with considerations from all collaborations made with other key stakeholders and situation analysis regarding refugee communities in Indonesia;
23. For further inquiries, discussions, collaborations, and other information is able to be communicated through [secretariat@suaka.or.id](mailto:secretariat@suaka.or.id). We are honored to submit this submission and are ready to support the works of Special Rapporteur and UN in general.

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