



Input provided by the United Nations High Commissioner for Refugees

into the

**Office of the High Commissioner for Human Rights’
Compilation and Stakeholders reports**

for the Universal Periodic Review of

INDONESIA

1. Background and Current Conditions

The Republic of Indonesia was elected as one of the first 47 member states of the United Nations Human Rights Council in 2006. In its pledge to the Council, the Government of Indonesia reiterated its intention to ratify the 1951 Convention Relating to the Status of Refugee (“1951 Convention”) and its 1967 Protocol by 2009.

While there is a constitutional principle concerning the right to seek asylum as well as basic legislation on the subject, the country has yet to develop implementing legislation on refugee matters. In the absence of national legislation and mechanisms, UNHCR remains as the only refugee protection institution in Indonesia capable of addressing protection gaps in areas such as access to fair and efficient refugee status determination procedures and durable solutions for refugees.

In practice, Indonesia has continued to show commendable openness towards asylum seekers and refugees. According to Immigration Directive No.: F-IL.01.10-1297, issued on the 30th of September 2002, entitled “*Regarding Aliens Expressing Their Wish to Seek Asylum or Refugee Status in Indonesia*”, the principle of *non-refoulement* shall be respected. Recognized refugees in Indonesia enjoy freedom of movement as well as a degree of access to public health services and primary education thanks to UNHCR’s interventions. However, due to the lack of legal mechanisms, the situation of refugees and asylum seekers remains informal and precarious.

UNHCR works regularly and closely with government institutions such as the Ministry of Foreign Affairs, Ministry of Justice, Ministry of Health, and the Immigration Department.

2. Legal Foundation

The following domestic laws contain provisions relating to asylum in Indonesia:

- Second amendment to the 1945 National Constitution, which stipulates that “...everyone has the right for political asylum in other countries”.
- Act No. 39 of 23 September 1999 on Human Rights, which stipulates in Article 28(1) that “Everyone has the right to seek and receive political asylum from another country”; Article 7(1) and (2) of the Human Rights Act provides that due process of law should be accorded to all those in Indonesia who have suffered from human rights abuses, and reiterates that international law instruments ratified by Indonesia are legally binding. Article 7 effectively enforces the legal obligation against *refoulement*, as set out in Article 3(1) of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which Indonesia is a party.
- Chapter VI of the Act on Foreign Relations No. 37 of 1999, which is devoted to the ‘granting of asylum and refugee problems’. The Act states in Article 25 that the “authority for granting asylum to foreign nationals is vested in the President and shall take into account the views of the Minister” and that any policy vis-à-vis refugees must be promulgated in the form of a Presidential Decree.

In order to make the foregoing legal provisions functional and effective, relevant implementing legislation or a decree on asylum needs to be adopted.

3. Accession to the 1951 Convention

Three events have demonstrated Indonesia’s willingness to ratify to the 1951 Convention and its 1967 Protocol relating to the Status of Refugee:

The first is the 2nd National Plan of Action on Human Rights in the Presidential Decree, which was signed in 2004 by then President Megawati Soekarnoputri.

Secondly, the 1951 Convention and its 1967 Protocol have been listed in the National Legislation Program 2005-2009. Accordingly, it is expected that the matter concerning Indonesia’s accession to each will be handed over from the Government to the Parliament for parliamentary deliberations in due course.

Thirdly, when Indonesia was elected as a member of the United Nations Human Rights Council in May 2006, it pledged to ratify the 1951 Convention and its 1967 Protocol by 2009.

In addition to these events, the relevant government institutions have engaged in continuous dialogue with UNHCR during 2006 and 2007 in preparation for Indonesia’s accession to the 1951 Convention and its 1967 Protocol. UNHCR has participated in more than 20 workshops, seminars, public hearings, lectures, and meetings organized by the Ministry of Foreign Affairs, Ministry of Justice, Ministry of Health, and the Immigration Department, respectively.

4. 10 Point Plan of Action in Addressing Refugee Protection and Mixed Migration Movements

In line with Indonesia’s plan to ratify the 1951 Convention and its 1967 Protocol by 2009, UNHCR Regional Representation in Jakarta has adapted the UNHCR “10 Point Plan of Action in Addressing Refugee Protection and Mixed Migration Movements” with the aim

of assisting the Government of Indonesia in developing an effective mechanism for addressing the needs of asylum-seekers, refugees and other persons in need of international protection and/or of special attention/assistance within a comprehensive approach. The Ministry of Foreign Affairs, Ministry of Justice, and the Immigration Department are currently in the process of reviewing the adapted version of the 10 Point Plan of Action to determine whether it can serve as a useful framework and tool for enhancing the Indonesian Government's capacity to effectively ensure refugee protection within the context of overall migration management in the country.

UNHCR
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