BARELY LIVING
Research on Living Conditions of Rohingya Refugees in Indonesia

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### GLOSSARY

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
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<tbody>
<tr>
<td>Un-Accompanied Children (UAC)</td>
<td>Child refugees or asylum seekers under 18 years of age who arrive at the territory of a country without company of adults who are responsible for or to nurture them.</td>
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<tr>
<td>Asylum seeker certificate</td>
<td>Sheets of certificate papers certifying that the holder has registered and is in the process of refugee status determination in UNHCR.</td>
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<tr>
<td>Asylum seekers</td>
<td>A person who left his home country to seek international protection (through UNHCR).</td>
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<tr>
<td>Blueprint</td>
<td>Design plans</td>
</tr>
<tr>
<td>Camp</td>
<td>Alternative placement for refugees outside of the immigration detention centers or rooms that formed a separate group of people in a given region. Generally the location is apart from the residents of local citizens. Camp in this context are temporarily or semi-permanent housing in a particular area.</td>
</tr>
<tr>
<td>Camp manager</td>
<td>A person who manages refugee camp.</td>
</tr>
<tr>
<td>Community house</td>
<td>Alternative placement for refugees outside of the immigration detention centers or rooms in the form of a guesthouse or hotel located in the midst of the residents of local citizens.</td>
</tr>
<tr>
<td>Cross-border refugees</td>
<td>Refugee based on Article 1A (2) of the UN Convention on Refugee Status of 1951 namely: &quot;As a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country&quot;.</td>
</tr>
<tr>
<td>Detainee</td>
<td>Occupants of the immigration detention centers or rooms.</td>
</tr>
<tr>
<td>Durable solution</td>
<td>Long term solution for asylum seekers. Established in 1951 Convention and consists of three ways, namely: 1) resettlement, 2) voluntary repatriation, 3) local integration. Indonesia only recognizes resettlement and voluntary repatriation, however does not accept local integration.</td>
</tr>
<tr>
<td>Entry point</td>
<td>The first city where the refugees entered the Indonesian territory.</td>
</tr>
<tr>
<td>Illegal Immigrant</td>
<td>A person entering national territory without valid travel documents by Indonesian Immigration regulations.</td>
</tr>
<tr>
<td>Immigratoir</td>
<td>Refugee and asylum seekers by the definition of the</td>
</tr>
</tbody>
</table>
Immigration of the Republic of Indonesia.

**Influx**: Wave or inflow.

**Interception site**: A location where the refugees and asylum seekers stopped their journey.

**International Habit**: A principle in the international laws where the general habit in the international world is accepted as a law.

**Irregular migrant**: To live or work in a country without the need of permit or documents stipulated in the Immigration regulations (IOM).

**Local integration**: To receive refugees and asylum seekers as citizens of a country where they live.

**Non-refoulement**: One of the principles of international law namely the practice of not to force refugees and asylum seekers to return to their home country where they will be persecuted.

**Persecution**: Arbitrary hunt to a person or a number of citizens and are hurt, made difficult, or annihilated (KBBI).

**Refugee Card**: Cards received by asylum seekers when their status have been established as refugees by UNHCR. This card becomes the only identity of a refugee in Indonesia.

**Refugee Status Determination/RSD**: The process of determining the refugee status conducted by UNHCR.

**Resettlement (to third country)**: Permanent long term solution where the refugees recognized by UNHCR are moved to a recipient country (third country) to be recognized as the citizen of the country.

**Rudemin**: Immigration Detention Centers

**Shelter**: See Community House

**SUAKA**: SUAKA (in capital letters) Indonesian Civil Society Network for Refugee Rights Protection.

**Vocation**: Education that focuses on the mastery of certain skills.

**Voluntary repatriation**: Permanent long term solution where the refugees recognized by UNHCR return to their home country voluntarily.
<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tr>
<td>ACT</td>
<td>Aksi Cepat Tanggap (A humanitarian NGO in Indonesia)</td>
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<tr>
<td>BPJS</td>
<td>Badan Penyelenggara Jaminan Sosial (National Social Security Body)</td>
</tr>
<tr>
<td>CWS</td>
<td>Church World Service</td>
</tr>
<tr>
<td>Dapodik</td>
<td>Data Pokok Pendidikan (Primary Education Data)</td>
</tr>
<tr>
<td>Dinsos</td>
<td>Dinas Sosial (Social Affairs office)</td>
</tr>
<tr>
<td>Direktorat PKLK</td>
<td>Direktorat Pendidikan Khusus dan Layanan Khusus (Special Education and Service Directorate)</td>
</tr>
<tr>
<td>HAM</td>
<td>Hak Asasi Manusia (human rights)</td>
</tr>
<tr>
<td>IOM</td>
<td>International Organization for Migration</td>
</tr>
<tr>
<td>JCM</td>
<td>Joint Committee Monitoring</td>
</tr>
<tr>
<td>Juknis</td>
<td>Petunjuk Teknis (Technical Guidance)</td>
</tr>
<tr>
<td>Kanim</td>
<td>Kantor Imigrasi (Immigration office)</td>
</tr>
<tr>
<td>Kementrian/Lembaga (K/L)</td>
<td>Kementerian atau lembaga pemerintahan setingkat kementerian (Ministry level office)</td>
</tr>
<tr>
<td>KK</td>
<td>Kartu Keluarga (Family registry)</td>
</tr>
<tr>
<td>KTP</td>
<td>Kartu Tanda Penduduk (Identity card)</td>
</tr>
<tr>
<td>KUA</td>
<td>Kantor Urusan Agama (Religious affairs office)</td>
</tr>
<tr>
<td>LSM</td>
<td>Lembaga Swadaya Masyarakat (NGO)</td>
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<tr>
<td>MoU</td>
<td>Memorandum of Understanding</td>
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<tr>
<td>NGO</td>
<td>Non-Governmental Organization</td>
</tr>
<tr>
<td>P2MP2S</td>
<td>Penganganan Penyelundupan Manusia, Pengungsi dan Pencari Suaka (Address of Human Trafficking, Refugees and Asylum Seekers)</td>
</tr>
<tr>
<td>PBB</td>
<td>Perserikatan Bangsa-Bangsa (United Nations)</td>
</tr>
<tr>
<td>Pemkab</td>
<td>Pemerintah Kabupaten (Regency level administration)</td>
</tr>
<tr>
<td>Pemko</td>
<td>Pemerintah Kota (Municipal administration)</td>
</tr>
<tr>
<td>Perpres</td>
<td>Peraturan Presiden (Presidential decree)</td>
</tr>
<tr>
<td>Polrestabes</td>
<td>Kepolisian Resor Kota Besar (Municipal Level Police)</td>
</tr>
<tr>
<td>Protap</td>
<td>Prosedur Tetap (Permanent procedure)</td>
</tr>
<tr>
<td>puskesmas</td>
<td>Pusat Kesehatan Masyarakat (Community Clinic)</td>
</tr>
<tr>
<td>Ranham</td>
<td>Rencana Aksi Nasional Hak Asasi Manusia (National Human Rights Action Plan)</td>
</tr>
<tr>
<td>RS</td>
<td>Rumah Sakit (Hospital)</td>
</tr>
<tr>
<td>RSD</td>
<td>Refugee Status Determination</td>
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<tr>
<td>RT</td>
<td>Rukun Tetangga (Neighborhood coordinator)</td>
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<tr>
<td>Satgas</td>
<td>Satuan Tugas (Task Force)</td>
</tr>
</tbody>
</table>
SK: Surat Keputusan (Decree)
SKPD: Satuan Kerja Perangkat Daerah (Regional government units)
SOP: Standard Operational Procedure
TimPOrA: Tim Pengawasan Orang Asing (foreigner supervision team)
TKI: Tenaga Kerja Indonesia (Indonesian Labor Overseas)
UAC: Un-Accompanied Children
UNHCR: United Nations High Commissioner for Refugees
UU: Undang-undang (Act)
UUD: Undang-Undang Dasar (Constitution)
WG: Working Group
WNI: Warga Negara Indonesia (Indonesian Citizen)
YG: Yayasan Geutanyao Geutanyao foundation
PREFACE

The United Nations (UN) had stated that Rohingya people belong to the most persecuted minority in the world. The persecution experienced in Myanmar had caused large scale exodus of Rohingya people to various countries. They had travel deadly journey, and many of them becomes victims of human trafficking.

Indonesia is one of the countries most impacted by the Rohingya refugees. At least there are three waves of Rohingya people arrival Indonesia; on 2009, 2012 and 2015. Aceh and Medan Provinces often became the initial landing zone of the Rohingya people, to be later relocated to other areas of Indonesia including Makassar and Greater Jakarta Area.

During June to October 2016, SUAKA conducted baseline research to document the condition of the Rohingya refugees during their stay in Indonesia. The research is aimed to portray the experiences and best practices in the refugee handling. The research involves Rohingya refugees, national and provincial government officials, international and local NGOs, and the people surround refugee shelters as resource people. The SUAKA researchers conducted interviews and observations in the location of Aceh, Makassar, Medan and Jakarta.

SUAKA research found the population of Rohingya refugees in Indonesia per September 2016 of 956 people. The number sharply decreased from the total population of Rohingya refugees in May 2015 of 1791 people. The Rohingya refugees in Aceh areas are settled in refugee camps, while in Makassar and Medan, the Rohingya refugees are accommodated in community house or shelter and immigration detention center. In Greater Jakarta Area, the Rohingya refugees are scattered and try to find their own shelters independently.

SUAKA found that, even though the asylum seekers are protected in the Indonesian 1945 constitution and Act number 37 on foreign relations, yet the normative assurances are not complemented with more operational provisions that can guide the field officials in handling the Rohingya refugees. Draft of presidential decree initiated in 2011 that is supposed to function as the operational guide for refugees handling as mandated by Foreign Relation Law, up to the present had not been issued yet.

Therefore on practice, the policies of refugee handling is left to the discretion of on premises government offices, in National as well as local level. One of the initiatives based on discretion is the establishment of Desk of Asylum Seeker, refugees and Human trafficking handling (Penanganan Penyelundupan Manusia, Pengungsi dan Pencari Suaka/P2MP2S). This Desk involves 11 ministries and related offices, yet due to lack of local working structure, the desk endorses Task forces under the coordination of local government in collaboration with the Team of Foreigner Surveillance under the structure of Immigration, Police, UNHCR, and IOM.

The involvement of civil society element in the handling of Rohingya refugees is only apparent significantly in Aceh Area. Since the early arrival of the Rohingya refugees, the surrounding communities, mostly fishermen had shown their care to the refugees. The Aceh fishermen had saved the Rohingya refugees when the central government is still in debate on whether to accept them or to send them back to ocean. After the rescue, many humanitarian organizations mobilize support to provide various accommodation facilities and other logistic needs. The interaction between the Rohingya refugees and Aceh people and fishermen continues long after. The interaction is apparent in many economic activities, such as helping to keep the shop, restaurant, farming or fishing. Unlike Aceh, the involvement or interaction of civil society with the refugees of Rohingya are not found in Medan and Makassar.

Due to the lack of operational rules on the refugee handling, SUAKA researchers found some Rohingya refugees human rights failed to be fulfilled. Even though normative assurance of human rights fulfillment is set out in the constitution and other prevailing regulations, yet in practice it has not yet been available for Rohingya refugees.
SUAKA found that all the responsibilities of rights fulfillment for Rohingya refugees are left to international organization such as UNHCR and IOM. UNHCR specially is responsible for the determination of refugee status and elaborate resettlement to a third country, while various matters related to food, clothing, shelter, health, and education allowances are fulfilled by IOM. Nevertheless, the IOM support on the rights to health and education are often insufficient to the needs of the refugees.

The issue of human rights fulfillment of the Rohingya refugees gets more complicated when the refugees are about to get a mixed marriage with Indonesian citizens. Despite being approved religiously, their marriages are never officially registered in existing civil as well as religious system. This issue had impact to the children born from this mixed marriage, such as the lack of birth certificate.

Even though the Rohingya refugee children can be sent to formal school, but due to the national education system based on the citizen identity of the parents, the Rohingya refugee never got formally recognized, although they participated in the learning process of the formal school.

SUAKA also found that the Rohingya refugees are unfulfilled in their rights to access legal aid, in the case of their position of a victim as well as alleged offender. The refugees are reluctant to engage in legal process, as they think it will backfire to them.

On the completion of this research, SUAKA would like to express deep gratitude to everyone who contributed to this research, especially to the two SUAKA researcher; Rizka Argadianti Rachmah and Zico Efrainio Pestalozzi who had dedicated their work the last six months. To DR. Enny Suprapto and Lisa who had guided us in the substance and research method. We are also very thankful to the immigration officers, Makassar government, Medan Government, North Aceh regency government, Langsa municipal government, UNHCR, IOM, the Rohingya refugees, and all civil society element, including but not limited to the Dompet Dhuafa, Aksi Cepat Tanggap, Geutanyo Foundation and JRS who had been willing to contribute as resource people in this research. We are also very thankful to LBH Jakarta and HRWG who had supported to the implementation of this research. Hopefully this research can contribute to the repertoire of references related to the Rohingya refugees in particular, and all refugee issues in general.

Jakarta, November 29th 2016

On behalf of SUAKA,

**Febi Yonesta**

Chairperson
INTRODUCTION

This report is written based on the baseline study conducted by SUAKA team since June 2016 to October 2016. The research is conducted in four cities, namely Greater Jakarta, Makassar, Aceh, and Medan. Baseline study is an effort to collect and interpret a condition or a tendency from a subject matter.

This report is written as an effort of SUAKA to documenting best practices and experiences in managing Rohingya refugees in Indonesia. The momentum of this report is also to view the situations of Rohingya refugees after one year period of treatment in Aceh. SUAKA realize that this research is far from perfect, but we hope that this research can provide basic information that can be used as a start to encourage changes on public perspective and awareness, also government policies as well as the other stakeholders, in managing refugees in general in Indonesia.

The time frame of the research covered from June 2011 to June 2016. To look at the Rohingya refugees movement patterns, both between immigration detention centers or independent movements, then the five-year period becomes ideal, considering that there were not many Rohingya refugees who have came, stayed, and resided long in Indonesia.

This study is also only covers samples of the entire population of Rohingya refugees in Indonesia. The selection of these four regions is not intended to be the representation of the practices of the management of Rohingya refugees throughout Indonesia.

The regions of Aceh and Medan are selected because they are the entry points of the Rohingya refugees, who have entered Indonesia, both through the direct path of the Indian Ocean as well as from Malaysia, through the Strait of Malaka. Makassar is selected because it is a region that has the largest population of asylum seekers and refugees, including in it the population of Rohingya refugees, after Jakarta and Medan, and it are the largest in the eastern region of Indonesia. While the Greater Jakarta is selected because the population of the asylum seekers and refugees in this regions is the largest in Indonesia, and many of the asylum seekers and the refugees migrate to Jakarta for easier access to the services at the UNHCR representation office.

The research conducted in the Greater Jakarta region does not include data and the results of interviews with the government of Jakarta province. The research is focused on finding data on the policies and managements that have been conducted by the central government.

The SUAKA research team, in those four regions, has met with 55 respondents of the Rohingya refugees, who were comprised of Rohingya families, mixed marriage Rohingya families, single male or single female and unaccompanied children. The names of these respondents of Rohingya refugees being interviewed are hidden for protection reasons.

SUAKA have also met with the stakeholders in each region visited. Officials from various levels of the government, both regional as well as central. The research team also conducted audiences with the Ministry of Justice and Human Rights, Directorate General of Immigration, Directorate General of Human Rights, and Directorate General of Legislation, the Ministry of Foreign Affairs, and the Coordinating Ministry for Political, Law, and Security Affairs.

The research team also met with the staffs and members of various NGOs, local and international CSOs. In Aceh, Lhokseumawe, North Aceh, and Langsa, SUAKA met with many CSOs involved in the management of Rohingya refugees since the beginning of the refugees’ arrival in May 2015. SUAKA also met with local and international staffs, such as International Organization for Migration (IOM) and United Nation High Commissioner for Refugees (UNHCR).

In addition, SUAKA also conducted interviews with the local citizens of the regions, who live near the shelter or the community house of Rohingya refugees. This is done to see whether
there are social interactions between the local citizens and the refugees, also to identify the impacts and their responses.

SUAKA would like express gratitude to those who have supported the implementation of this research. To friends of SUAKA networks in their respective research regions, who have take the time and effort, as well as their expertise, so the process of this research went smoothly. SUAKA would also like to thank the asylum seekers and the refugees, who have given the chances and trusts to the research team to dig up testimonies and information from them.
"I went to the immigration office, but they did not do anything. I gave birth in a health center Barabaraya, and then afterwards I went to Labuan Baji hospital. I was just asked about the identity, BPJS (social health insurance), etc. I did not have. I did not have an ID card either. In Aceh Tamiang, when I was still a girl, I had an ID card. But in Malaysia, it's gone missing, the identity card was not renewed. I wanted to make KK (family card), but I could not make a new KK because my husband is not Indonesian."

- M (31 / P), Acehnese who is married to Rohingya refugee.
ROHINGYA: CONFLICT AND REFUGE

According to the United Nations, the people of Rohingya are included as one of the minority groups who are most persecuted in the world. They don’t have the freedom to move, don’t have access to education and public services, and often become the victims of confiscation of property. In addition, the ethnicity of Rohingya also becomes vulnerable to arbitrary arrests, rapes, and various psychological and physical abuses. They are stateless persons in their own homeland, due to the discriminative policy implemented by the Government of Myanmar, especially when the ethnicity of Rohingya was excluded from the list of 135 recognized ethnicities in Myanmar, through the amendment of the Constitution in 1982.

The history of the refuges of Rohingya people have lasted throughout the time. At least there were several important periods where thousands of Rohingya people were forced to leave their homeland due to the encouragement of ethnic and religious conflicts. Those periods of refuges occurred at the end of 1700s, early 1800s, 1940s, 1978, and 1991-1992. In the period of 2000s, the waves of refuges continued, and even had an impact in Indonesia.

SUAKA recorded that there were at least three influxes of refuges where the people of Rohingya reached the shores of Indonesia; in 2009, 2012, and 2015. In 2009, there were an estimate of 400 Rohingya people who had landed in East Aceh region. Under the coordination of the Directorate General of Immigration in cooperation with UNHCR and IOM, they were placed in immigration detention centers and community housing facilities in various regions. The next influx of refuge of Rohingya people occurred in 2012. This influx of refuge was triggered by sectarian violence that targeted Rohingya Moslems in Rakhine region.

In May 2015, Indonesia received Rohingya refugees who were stranded in the waters of Aceh. As many as 1,300 people, a mix of Rohingya and Bangladesh refugees, were saved by the fishermen of Aceh after days floating on the sea. Before reaching the waters of Aceh, their boats were left by the crews in Andaman waters, Thailand. Although initially they were rejected, the Indonesian Government at the end allowed Rohingya refugees to land to be given assistance and temporary shelter.

That incident in May 2015 was later remembered as Bay of Bengal Crisis or Andaman Sea Crisis. As an emergency response, governments of Thailand, Malaysia, and Indonesia, as

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5. Rohingya Refugees Drama in Aceh, page 19, SHEEP Foundation Indonesia, March 2016
emergency response, held a ministerial meeting in Putrajaya, Malaysia, on May 20, 2015. This meeting was to discuss the solution of the waves of refugees and the national security issues of those countries. The governments of these three countries agreed to keep their responsibilities and obligations according to the international laws, with regards to their respective domestic laws, including those related to the humanitarian relief operations to the refugees (irregular migrants).  

On the same day, the governments of Indonesia and Malaysia declared their readiness to accommodate the refugees and migrants who were adrift at sea with the condition that they were placed in third countries or repatriated within one year.

Malaysia and Indonesia agreed to provide humanitarian assistance to 7,000 Rohingya refugees who are afloat at sea. Both countries also willing to provide temporary shelters with condition that the resettlement and repatriation processes will be conducted by international community within a period of one year.

Besides the above emergency responses, the large scale of the crisis forced the impacted countries around the region to held Special Meeting on Irregular Migration in the Indian Ocean on 29 May 2015, in Bangkok, Thailand. This meeting involved 17 countries as participants, and several countries and international organizations as observers. Some of the principle outcomes of this meeting are to intensify the search and rescue process, the protection to the vulnerable groups and the strengthening of international cooperation in gathering resources needed in emergency responses.

Incidents related to the handling of Rohingya refugees above were not the first time for Southeast Asia regions in addressing refugee problems. This event has been a repetition of the history of waves of refugees in 1975, where Thailand, Malaysia, and Indonesia experienced the crisis of Indochina refugees. It was recorded that more than 600,000 Indochina crisis refugees that were successfully resettled in western countries, such as the United States of America, Canada, Australia, and France.

Indonesia itself accepted and provided management of about 170,000 people, who were placed in the shelter camp on Galang Island. Almost all of them came from Vietnam, and a small portion came from Cambodia and Laos. On the other hand, Thailand, Malaysia and Indonesia at the time, and until now, are not parties to the 1951 Convention on Refugees, and the 1967 Protocol.

Indonesia, related to the asylum seekers and refugees issue, is subject to the accepted principle in the international customary law, namely the principle of non-refoulement that gives the policy to accept the refugees, and to provide a place to process them in providing resettlement in third countries. Indonesia in cooperation with UNHCR and other international institutions processed these refugees.

Based on the UNHCR statistics per September 2016, Rohingya refugees in Indonesia is as many as 959 persons. This number includes up to 13% of the total population of asylum seekers and

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13 http://www.bbc.co.uk/indonesia/dunia/2015/05/150520_dunia_indonesia_malaysia_tampung
14 http://www.bbc.com/indonesia/berita_indonesia/2015/06/150604_indonesia_penempatan_rohingya
15 Indonesia and Malaysia agree to offer 7,000 migrants temporary shelter. https://www.theguardian.com/world/2015/may/20/hundreds-more-migrants-rescued-off-indonesia-as-pope-calls-for-help
refugees in Indonesia. While the highest peak of the statistic once reached 1,791 persons, during the early Rohingya influx in May 2015.\textsuperscript{19} This statistic number of September 2016 is divided into 62 persons of asylum seekers and 897 persons who have received refugee status, and is comprised of 294 women and 665 men.

Based on the search of SUAKA team, Rohingyas under the protection of UNHCR can be divided into refugees living in the community housings, immigration detention centers, and interception sites, in addition there is a category of independent refugees, who pursued their own homes. In Makassar and Medan, the refugees are placed in community houses coordinated by IOM, and in the immigration detention centers facilities. While in the Greater Jakarta region, many refugees become refugees who live independently.

The Rohingya refugees in Aceh were placed in refugee camps that functioned as an interception site.\textsuperscript{20}

SUAKA also found many of the Rohingya refugees in Aceh who have not finished their formal education in Myanmar, most of them quit school in the first or second grade, due to conflicts, government prohibition, or they preferred to work. In Makassar, Medan and Jakarta, SUAKA found there are refugees who have finished their formal education; there are even those who have enrolled in universities.

Of the Rohingya refugees in Aceh who were met by the research team, there are those who made a living in Myanmar as shopkeepers, diner keepers, farmers, and fishermen. Drop out children, according to their stories, usually help their parents in doing their works. The previous works in Myanmar of the Rohingya refugees in other regions are more various compared to Rohingya refugees in Aceh, there are those who have worked as program staff of an international NGO, teachers, political party officials, and shop owners. The Rohingya refugees in Makassar, Medan, and the Greater Jakarta, mostly have stayed in Malaysia previously. In Malaysia, they found works as diner waiters and shopkeepers, cooks, construction workers, or as drivers. While working in Malaysia, most of them met and finally married with the women Indonesian workers.

\textsuperscript{19} UNHCR Monthly Statistical Report Indonesia, May 2015.
\textsuperscript{20} Based on the interview with IOM, dated on 26 October 2016.
“This (refugees) should be a National program.... It should not be submitted entirely to the Regional Government. There should be laws and there should be a seriousness of the central government.”

- Mayor of Makassar
THE FULFILLMENT OF THE RIGHTS OF THE REFUGEES

Indonesia has an experience in refugee management, namely the Indochina refugees who came to Indonesia in July 1975. Around 170,000 refugees from Vietnam entered Indonesian region. At the time, the Indonesian Government decided to place the refugees in a separate island, namely the Island of Galang. It was decided with many considerations and also the tugging of discourse.

Until in 2015, again Indonesia was visited by the Rohingya ethnic refugees in a large number from Burma and migrants from Bangladesh. Around 6,000 refugees and migrants were afloat in the Andaman Sea and it was estimated that 400 people ended up in the waters of East Aceh. They the landed and received assistance from the government, as well as the people and CSOs, both local and international.

Currently, the number of population of the asylum seekers and refugees is 13,707 people, and spread in 16 cities in Indonesia.

LEGAL FRAMEWORK

Indonesia does not have a specific legal framework that describes how the government should handle the refugees, a regulation that is national and regulates various levels of government institutions.

In 1956, the Indonesian Prime Minister, Ali Sastroamidjojo, issued Circular Letter of the Prime Minister No. 11/R.I./1956 concerning "The Protection for Political Refugee." In Article 2, it is explained that:

"a political refugee is defined as a foreigner who entered into or is in the Indonesian territory for having committed a political crime."

This Circular Letter became the Indonesia's first markers in considering the cross-border refugees. The Circular Letter was issued when Indonesia changed the form of the state to become the Republic of the United States of Indonesia, and in 1956, the number of refugees exploded due to the Soviet attacks that destroyed the Hungarian Revolution. This explosion of refugees was thought would have an impact to Indonesia, therefore it had caused the Indonesian Prime Minister, Ali Sastroamidjojo, at the end issued the Circular Letter.

After the Circular Letter was issued, there was no other regulation that is general that regulates the cross-border refugees.

22 Rohingya Refugees Drama in Aceh, page 19, SHEEP Foundation Indonesia, March 2016
25 Explanation to Article 2 states that: "the political refugees refer to foreigners, who according to the legal system of the given country have committed a crime either for political reasons or by opposing the state system of that country. Such acts may be committed either outside or within Indonesian territory, and therefore in Article 2 it uses the words ‘a foreigner who entered into or is in the Indonesian territory.’"
But in 2011, the Indonesian Government through the Ministry of Foreign Affairs initiated the President Regulation (Perpres) on the Management of Refugees and Asylum Seekers, as the mandate of Law No. 37 of 1999 regarding Foreign Relations.

The process of developing the President Regulation is considered exhausted to all government agencies and currently awaiting the President's decision to sign it. The draft of the President Regulation has undergone changes so many times that at this point it is already with the Secretariat of State to be signed by the President. It is not known when the President will sign the Regulation, although in May 2015 Indonesia received a large influx of Rohingya refugees, it did not move the President to ratify the President Regulation.

In the National Action Plan for Human Rights (RANHAM) of Indonesia for 2015 – 2019, it is no longer mentioned specifically on the ratification of the international Human Rights instruments, including the 1951 Convention on the Protection for Refugees and its protocols in domestic laws. While, the previous two periods of RANHAM mentioned clearly on the conventions’ ratification plan.

The excess is that the handling of refugees and asylum seekers emphasizes on the role of the Immigration as the state institution that monitors the flow of people entering and exiting the territory of Indonesia. While not all of the problems on the field related to the handling refugees and asylum seekers are included in the authority of the Immigration.

For example: if a refugee marries an Indonesian citizen, what is the status of the marriage of the Indonesian citizen, and if they have a child, how about the right of the child to education? The registry of the marriage and child’s education access are of course outside of the authority of the Immigration.

In the end, viewing the complexity of the problems on the field, various government institutions try to make breakthroughs in order for the problems not to enlarge.

At the Ministry/Institution level, a Desk on Handling People Smuggling, Refugees and Asylum Seekers (P2MP2S) which functions to conduct coordination between Ministries/Institutions and to provide recommendations to the institutions below them and also the local governments on what to be done to handle the refugee problems that arise on the field. This Desk is formed based on the Decision of the Coordinating Minister of Political, Legal and Security Affairs Number KEP-10/MENKO/POLHUKAM/1/2013, and the Decree of P2MP2S continues to be renewed each year.

This Desk involves 11 related Ministries and Institutions, namely:

1. Coordinating Ministry of Political, Legal, and Security Affairs
2. Ministry of Home Affairs
3. Ministry of Foreign Affairs
4. Ministry of Justice and Human Rights
5. Ministry of Finance
6. Ministry of Transport
7. Indonesian National Police
8. Supreme Court
9. State Intelligence Agency (BIN)

27 Interview with Directorate of Harmonization of Law and Regulation, on 18 Oktober 2016.
10. Indonesian Navy (TNI AL)

11. National Search and Rescue Agency (Basarnas)

However, due to the limited legal basis, then the duties and authority of each Ministry/Institution shall be related to their main duties and functions (tupoksi. However, the target is expanded by including the refugees and asylum seekers in their main duties and functions.\textsuperscript{29}

Because this Desk has no structure in the regions, then besides coordinating the Ministry/Institution that are included in the structure, this Desk also encourages the formations of task forces in handling refugees at the regional level which involve various government agencies.\textsuperscript{30}

\textit{Photo 1 Secretariat Office of Foreign people supervision of Medan city, led by Medan Immigration office, consisting of Medan municipal government, district attorney, Police, State Intelligence body, Armed forces, National Narcotic body, and office of religious affairs.}

The Desk also monitors the course of the handling refugees and asylum seekers in regions that pocketing in Indonesia. One of the things that become the consideration of the Desk is the effectiveness of Foreigners Monitoring Team (TimPOrA) – a special team lead by the Directorate General of Immigration and consists of various government agencies at the regional level.\textsuperscript{31}

TimPOrA is a mandate from the Immigration Law No. 6 of 2011, which orders the Immigration to be the leading sector in each region in Indonesia to monitor and handle the foreigners in Indonesian territory, including the refugees and asylum seekers. Each Immigration Office (Kanim) is instructed to form and lead TimPOrA in their working region, and prepare a membership according to the characteristics of the working region of the Immigration Office.\textsuperscript{31}

\textsuperscript{29} Ibid.
\textsuperscript{30} Ibid.
\textsuperscript{31} Ibid.
There are no exact arrangements instructed by the central government through the Directorate General of Immigration concerning the membership of TimPORa in each Immigration Office.

In April 2016, the Directorate General of Immigration issued the Directorate General of Immigration Regulation No. IMI-0352.GR.02.07 on Handling Illegal Immigrants Who Declare Themselves as Asylum Seekers or Refugees. Article 4 in the regulation regulates “other places” as one of the form of placements of the refugees. Asylum seekers and refugees who can reside in the “other places” are those who are sick or need treatments, those who will give births, children, or when the immigration detention centers /spaces are full. This is an improvement for Immigration to enlarge the opportunity for children and pregnant mothers not to be placed in Immigration detention centers or Immigration office room.

With the limited rules, the fulfillment of the human rights of the refugees becomes difficult to perform.

At the end, the legal basis to manage the refugees and asylum seekers comprehensively is urgently needed in the regions. However, if the central government issues a national policy, it is expected that the policy does not cause a negative impact at the regions. Or the issuance of the national policy only to legitimate justification for regions to issue a budget, rather than to clarify and strengthen the authority of each government institutions that have been involved, as well as those that should have been involved.

THE MANAGEMENT BY REGIONAL GOVERNMENT

The absence of laws has caused various government institutions try to make breakthroughs based on the limited authority owned by each institution in management the refugees and asylum seekers.

Three regions that become the research targets affirmed the hypothesis. Each region has its own characteristics in handling refugees and asylum seekers in their working area. And although the team formed in each region involves similar government institutions, the roles played and the contributions mandated are different.

MAKASSAR

The Positive Role of the Mayor of Makassar

According to the data from UNHCR per August 2016, there are around 2,041 refugees and asylum seekers who reside in Makassar. This number is the second largest in Indonesia, after Jakarta. One of the factors that the numbers of refugees and asylum seekers in Makassar is high because the positive policy of the Mayor of Makassar to issue ‘residence’ permit in Makassar for refugees and asylum seekers.

To prevent the handling of refugees and asylum seekers go beyond the authority of the Mayor, the Mayor of Makassar signed a Memorandum of Understanding or MoU related to the management of the refugees and asylum seekers in the city of Makassar on 23 September 2015. This is also to accommodate the needs for funding that cannot be disbursed by the Regional Government to deal with the refugees and the asylum seekers due to the absence of legal basis to legitimize the use of the Regional Budget (APBD). It is also to cope with the

32 Interview with the 1st Assistant of the Government of Langsa City, 7 September 2016.
33 Interview with Immigration Office (Special Class I) of Medan, 13 September 2016.
34 Interview with Social Services of Makassar City, 5 August 2016.
absence of direction from the central government on the management of the refugees and the asylum seekers to the Government of Makassar City. 

Figure 1 Route map of Rohingya refugees movements ended up in Makassar.

From the MoU, a blueprint is prepared on the management of the refugees that involves various sectors in the government, such as the Department of Education, Department of Health, Department of Social Services, Department of Labor, and many others. The blueprint is expected to be as a working reference for the government officials of Makassar City to deal with the refugees and asylum seekers in Makassar. However, until this research is launched, the blueprint is still on the table to be adopted.

This MoU considered as a breakthrough done by the Mayor due to the lack of direction from the central government on handling refugees and asylum seekers, that becomes the authority of the City Government. Coordination were indeed occurred between the City Government and the Police and the Immigration of Makassar City and other related agencies at the regional level, however there is no coordination on the central government level.

The absence of laws also make the Regional Government does not have the funding resources to conduct activities related to the handling of refugees and asylum seekers. The entire funding of the Government of Makassar City for activities related to the refugees is charged to IOM.

**Joint Committee Monitoring (JCM)**

As a derivative of TimPOrA, a container is formed to do monitoring, namely the Joint Committee Monitoring (JCM). This Committee is comprised of various government agencies in the City of Makassar, such as the Immigration, Social Services, Department of Religion, the Police, and many others. JCM is formed because not all of the things related to the refugees can be resolved

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35 Interview with the Mayor of Makassar, 9 August 2016.
36 Interview with the Makassar Immigration Office (Class I), 16 August 2016.
by the Immigration. Such as if a refugee has committed a crime, and then he should be processed in the Police Department, not by the Immigration. Likewise, if there is a refugee who is caught of marrying an Indonesian citizen, then the function of the Civil Registry should take precedence. However for the leading sectors, they are still under the authority of the Immigration.

The monthly routine activity of JCM is to conduct monitoring by providing information dissemination to the refugees on what they can and cannot do while they are in Indonesia, specifically Makassar. There is an urgency to provide information on the code of conducts for the Immigration of Makassar City in order for the refugees to abide by the existing rules. The main purpose of this program is the existence of security and convenience in the society. Because according to the Immigration, the refugees cannot be given freedom freely. In case a violation from the applicable regulations occurred, then the Immigration will take action on the refugee.

Similarly, if there are refugees who have good personalities and behave well, then the Immigration will direct the refugees or the asylum seekers to IOM to be given capacity development or to be facilitated.

Although Immigration has no specific source of funds to handle the refugees and the asylum seekers, they use the budget post of dissemination funds to immigrants to finance the activities of JCM.

Head of the Neighborhood (RT) and Their Roles

As the smallest government institution, the Neighborhood (RT) plays a vital role in bridging the needs of its residents including when something happen between the citizens and the refugees or asylum seekers in its area of responsibility. The Head of the Neighborhood will be the first to know about the conflicts between its residents with the refugees and the asylum seekers. Similarly, when a positive things occur between the residents and refugees or asylum seekers who live in its area of responsibility.

Photo 2 One of the community house area in Makassar.
But in the field, knowledge and role of the Head of the Neighborhood in handling the refugees and the asylum seekers in their area are very low. The researcher even found that on one occasion the Head of the Neighborhood did not know that the building right behind his house is a refugee shelter.

While in several shelters which are quite large, the Heads of the Neighborhood tend not to be able to do anything to accommodate the needs of their residents which become an excess from the presence of the shelter in the area of responsibility of the Head of the Neighborhood. The Head of the Neighborhood also cannot provide the right information to their residents due to the lack of information obtained officially through dissemination as well as counseling.

Although the information dissemination conducted by the Social Services is quite massive\(^{37}\) however apparently the information delivered stopped at the level of urban village/sub-district. The Heads of the Neighborhood generally were only given directions to record the data of refugees and the asylum seekers in their area of responsibility to be reported later to the local District and to inform that the entrance of the refugees to their Neighborhood area is legal.

In some shelters, the recording activity is purely the initiative of the Heads of the Neighborhood. This is conducted as a form of responsibility to their working area, while the information they obtained are very minimal due to an absence of knowledge on the lines of coordination that can be taken in case something happens.

Of all the Heads of the Neighborhoods that we have interviewed, there was no Head of the Neighborhood who received any official information dissemination on who are the refugees, why they are in Indonesia, specifically Makassar, and how they should treat them. They tend to receive other information from direct interactions or from the rumors spread around the society.

In principle, the residents, through the Head of the Neighborhood, have no problems with the existence of the refugees, considering the news they know that these refugees ran away and need protection, but it will be a problem when the locals and the refugees don’t have an understanding on the characters and the local wisdoms, and also conflicts due to rumors that spread. When something happens, this causes the Head of the Neighborhood does not understand what they should do, even tends not to take any preliminary actions.

The Head of the Neighborhood also feels that there is a communication gap between the owner or management of the shelter and the Head of the Neighborhood, so information on the data of the people in the shelter are not obtained entirely.

The understandings of the Heads of the Neighborhood are also different when asked who actually has the authority on these refugees. Some answered that the District has the authority, both for documenting and returning the refugees to their home country. There are also those who think that the Immigration and the Police that should have the authority to handle the refugees. While the Heads of the Neighborhood also don’t feel that an official had came or should report or communicate to UNHCR regarding refugee problems occurred in their areas of responsibility.

**Local NGOs**

In Makassar, the cooperation with NGOs are conducted through the Social Services of Makassar City, especially for Un-Accompanied Children.

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\(^{37}\) Interview with Social Services of Makassar City, 5 August 2016
However, there are not many NGOs in that fully understood the refugee issue. There are several NGOs that have tried to provide education programs for refugee children through the Social Services of Makassar City, however the idea was failed to be approved. Until the research is written, practically there are no local NGOs involved in the management of the refugees and asylum seekers in Makassar.\(^\text{38}\)

The involvement of local NGOs also was not conducted by the Immigration in its monitoring function.\(^\text{39}\) It is admitted that there is no NGOs that deals with specific issue on monitoring the refugees and the asylum seekers in Makassar. The Immigration is still waiting for the proper time to involve local NGOs.\(^\text{40}\) While Immigration has lacks of human resources in handling the monitoring of refugees and asylum seekers.

**MEDAN**

The handling conducted by the Immigration Office is registering, monitoring, and documenting all data. All actions related to immigration and foreigners, are submitted to the Immigration Office, both in Polonia as well as Medan.\(^\text{41}\) The Immigration also regularly visits the shelters to conduct socialization on the rights and obligations of the refugees during their stay in Indonesia.\(^\text{42}\) The numbers of shelters in Medan are as many as 23 shelters.\(^\text{43}\)

There are no special task forces who handle the cross-border refugees in Medan, there is only Tim POrA. All monitoring functions are with the Immigration, in cooperation with UNHCR and IOM. Even Immigration also conducted persuasive approach to the Government of Langkat City that once rejected the presence of the refugees and the asylum seekers in its region, although no permission obtained.\(^\text{44}\) The Immigration Office (Class I Special) of Medan also conducted initiatives to provide socialization to the sub district level on where refugees stay. This is also conducted because the number of independent refugees who are not reported and being reported to the Immigration and also do not want to undergo the immigration process are many.\(^\text{45}\) However the trend applicable currently is that many of the refugees and asylum seekers reporting themselves to the Police or the Immigration Office, they then placed at immigration detention centers of Belawan.\(^\text{46}\)

However for the level of Neighborhood (RT), there is insufficient understanding on the presence of refugees in their areas. Usually the Head of the Neighborhood only conducted limited control to the local shelter. The data documenting is also not conducted by the Head of Neighborhood, although there is no report on the rejection of the residents to the presence of refugees and asylum seekers in their neighborhood. The Heads of the Neighborhoods also complained on the lack of coordination and the poor communication between the Heads of the Neighborhood with IOM, shelter owner, as well as the Immigration Office.\(^\text{47}\)

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\(^{38}\) Based on the Focus Group Discussion of various NGOs in Makassar, 15 August 2016.

\(^{39}\) Interview with the Immigration Office (Class I) of Makassar City, 16 August 2016.

\(^{40}\) Ibid.

\(^{41}\) Interview with the Immigration Office (Class I) of Polonia, 16 September 2016.

\(^{42}\) Ibid.


\(^{44}\) Interview with the Immigration Office (Class I Special) of Medan, 13 September 2016.

\(^{45}\) Ibid.

\(^{46}\) Interview with Immigration Detention Center of Belawan Medan, on 14 September 2016.

\(^{47}\) Interview with the Head of the Neighborhood of one of the shelters in Medan, 18 September 2016.
For the security of the environment and the order of society, the Immigration cooperates with the Police. When there is a violation, then the Police will report to the Immigration to prosecute the violator; and then temporary place him in an Immigration Detention Room or if necessary, is put in the Immigration Detention Centers.\textsuperscript{48}

**Local NGOs**

Similar to Makassar, there are no NGOs in Medan that moves for the refugees and the asylum seekers. Several NGOs stopped conducting education activities for refugee children since around two years ago.\textsuperscript{49} Until now, the Immigration Office does not cooperate with any NGOs. And if there is an NGO that wants to work for the issue of refugees and asylum seekers, then they will be directed to contact IOM.\textsuperscript{50}

**ACEH**

In the specificity of Rohingya refugees who landed in Aceh, the works of local NGOs become important because the emergency response and sustainable activities done are faster than the government. When handling the refugees, NGOs are not related to any regulations that may endanger their existence. While the regional government becomes slower due to the absence of legal basis to conduct any actions. The flexible works of the NGOs have caused the emergency response condition of Rohingya refugees in Aceh to be done sprightly.

Various activities taken by the local NGOs, among others: Dompet Dhuafa to build the school building in Timbang Langsa and to conduct the teaching and learning process there. Medicine Sans Frontier provides the management on clinical psychology consultation, both personally as well as groups in Bayeun and Langsa shelters. And there are many other NGOs that still persist in the camp and do many activities. PKPU, Dompet Dhuafa and Peduli Umat also contributed in the camp renewals in Langsa.\textsuperscript{51} And also many other activities.

The works of the NGOs can also reach not only the refugees, but the local society. Unfortunately, many of the NGOs have finishes their programs in December 2016.\textsuperscript{52} Therefore, next year it is estimated that there will be less NGOs that conduct their activities at the camp.

**The Management of the Regional Government**

In Aceh, the control on the management of Rohingya refugees is held by the Task Forces. The semi-permanent camps in Blang Adoe and Bayeun Langsa\textsuperscript{53} are handled by the Task Forces of both the government as well as the NGOs of Lhokseumawe City. While the shelters at Lhok Banie and Timbang Langsa is handled by the Task Forces of Langsa City. There is no placement done by the Immigration at the Immigration Detention Rooms of Langsa City or the Regency of Lhokseumawe. The Task Forces of each of this city don’t have lines of coordination directly. Each of the task force works independently, however they still open the communications to share information and experiences.

\textsuperscript{48}Interview with the Immigration Office (Class I) of Polonia, 16 September 2016.

\textsuperscript{49}Based on the Focus Group Discussion with several NGOs in Medan, 13 September 2016.

\textsuperscript{50}Interview with the Immigration Office of Polonia, 16 September 2016.

\textsuperscript{51}Interview with the Immigration Office (Class II) of Langsa City and Head of the Division of the Government of Langsa City, 6 September 2016.

\textsuperscript{52}Based on the Limited Group Discussion with the NGOs of Langsa City, 8 September 2016.

\textsuperscript{53}Interview with the Immigration of the government of the Regency of Lhokseumawe, 6 September 2016.
Each task force generally work based on a Decree issued by the Mayor. Those task forces generally are led by the Immigration and each City agencies that become member of the Task Force to work according to the main duties and functions.

These task forces also emerged as the encouragement done by Management on People Smuggling, Refugees and Asylum Seekers (P2MP2S) Desk to cope with the legal absence on the management of refugees and asylum seekers in Indonesia.  

Although there is no special direction on a specific management of Rohingya refugees, or corrections or recommendations for a better management. Especially the evaluation on the management of Rohingya refugees, based on the one year deadline of the request on a management by the Central Government. This is often makes the Regional Government to be a little hesitant to do something.

The Task Force of Langsa City
For the Government of Langsa City, this is the first reception after the expansion of the region. Previously there had been a reception of Rohingya refugees, but at the time it was still joined with East Aceh. So this is the first time for the Government of the City of Langsa to handle the refugees autonomously.

In conducting the management, the Government of Langsa City did not receive specific directions from the Ministry of Home Affairs or other Ministries in Jakarta. Instead the
coordination came from the National Disaster Management Agency (BNPB), two weeks after the refugees landed. The City Government only counted on the Laws of the Government of Aceh in conducting the management, and also there was no certain policies issued.

The Task Force of the Government of Langsa City is led by the Immigration of Langsa City. However, the Mayor appointed the 1st Assistant of the Government of the City of Langsa to be the Daily Executor of the Task Force. The local NGOs tend to be under the command of the City Government, due to the issue that the definition of “illegal immigrants” adopted by the Immigration is not in accordance with the definition of refugees offered by UNHCR through the 1951 Convention.

The framework of the Task Force can be said to be unique, because all of the membership of the Task Forces are not divided based on whether they are from the government agencies or not. All parties who want to contribute become an equal part in the Task Forces, whether from the government, local or national NGOs, as well as international organizations. All decisions related to the management of Rohingya refugees in Langsa City, coordination related to accepting and distributing aids, or other matters, should be approved by the Task Force.

This Task Force doesn’t have a reporting mechanism and were formed to avoid the overlapping of the management of Rohingya refugees, also as a means of coordination. The Immigration also does its duties to document the data and to monitor. Until now, there are 11 persons that have been sent to the third countries from Langsa City.

Meanwhile, the Social Services of Langsa City received directions from the Ministry of Social Affairs for the refugees to be managed well and does not neglect the logistics needs of Rohingya refugees. During the panic period, that is one month after the reception of refugees, the Social Services of Langsa City provided logistics services and the receiving and distribution of aids with maximum efforts.

After more than one year of managing Rohingya refugees, the Task Force finally have Standard Operational Procedures (SOP) prepared based on the experience as well as lessons from various parties on the management of refugees. Hopefully the SOP can function again, should similar event occurred in the City of Langsa.

The Government of Lhokseumawe Regency

The management in Lhokseumawe is a little different. This is due to the functions of the Task Force that are not fully implemented, so several initiatives should be conducted on the basis of humanity of the personnel from the existing various government agencies. Initially the Mayor issued a Decree on the formation of the Task Forces, however there is no renewal to the Decree or initiatives of the local government institutionally, considering the one year period has passed. Therefore, currently the management of Rohingya refugees in Lhokseumawe becomes unclear, whether the activities on the management of the refugees conducted by government officials, is an appointment or voluntarily done on humanity basis from the government officials, while the handling of Rohingya refugees cannot be neglected.

59 Interview with the District Police of Lhokseumawe City, 10 August 2016.
60 Discussions on the Focus Group Discussion with NGOs in Langsa, IOM and UNHCR, 8 September 2016.
61 Interview with the Immigration Office of Langsa City, 1 September 2016
62 Ibid.
63 Interview with the Social Services of Langsa City, 1 September 2016
64 Interview of the 1st Assistant of the Government of Langsa City, 7 September 2016.
65 Interview with the Head of the Women Empowerment and Children Protection (KP3A) Office, 31 August 2016.
To overcome the absence of the Task Force, several individuals in the government who pay attention to this issue, formed Working Groups together with local NGOs. All activities done by the Task Force as well as the Working Groups are reported to the Regional Secretary. The communication to the Central Government is also done by the Regional Secretary.66

The Working Groups then conduct various activities in Blang Adoe camp in Lhokseumawe, although currently there are no significant activities at the camp, and practically there are currently only ACT, IOM, UNHCR and a Medical Clinic those operate. However, in the Government of the Regency, the process of the formation of the new Task Forces is being conducted, along with the SOP on problem handling in the shelter.67 Each Regional Working Unit (SKPD) at the Government of the Regency of Lhokseumawe is planning activity plans to activate the new Task Forces.68

Related to the budget, both Task Forces as well as the Working Groups also do not use the funds from regional budget as well as the budget of the related agencies. All finances are issued by IOM or individual as well as NGOs donations, even from personal money. In the first three months of the reception of Rohingya refugees, all costs spent by the government agencies, both of Regency of Lhokseumawe as well as Langsa City are paid by IOM.

REFUGEE STATUS DETERMINATION PROCESS AND RESETTLEMENT

The Government of Indonesia in the management of the asylum seekers and refugees cooperates with UNHCR and IOM. The Indonesian Government gives the authority to UNHCR to conduct Refugee Status Determination (RSD) for the asylum seekers who enter the Indonesian territory.

The United Nation High Commissioner for Refugees (UNHCR) is a non-government organization formed by the General Assembly of the United Nations in December 1950, and started his operations in January 1, 1951. UNHCR has a mandate to provide international protection to refugees and pursues durable resolutions or permanent solutions to their problems. UNHCR, in carrying out its mandate, cooperates with the governments according to the agreements with the concerned countries. In addition they also cooperate with other organizations.69

The Directorate General of Immigration issued the Directorate General of Immigration Regulation Number IMI-1489.UM.08.05 concerning the Management of Illegal Immigrants. The Regulation states that asylum seekers and refugees are referred to UNHCR to be able to undergo the process of Refugee Status Determination (RSD), and receive the refugee card, or asylum seeker certificate. A person who has one of these documents above is allowed to stay in Indonesia and cannot be detained or sent home forcefully.

The protection not to be sent home forcefully is in accordance with the principle of non-refoulement, namely the principle that established that no contracting state shall expel or return a refugee, in any manner whatsoever, to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.70

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66 Ibid.
67 Interview with the Head of the Organization Division of the Government of the Regency of Lhokseumawe – Deputy Secretary I of the Management of Rohingya Asylum Seekers of North Aceh Team, 1 September 2016.
68 Ibid.
69 The field guidance for CSOs. May 1999. UNHCR, page 22.
70 No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality,
Article 33 that contains the principle of non-refoulement is included in articles that cannot be reserved and this principle also binds the countries of non-participants of the 1951 Convention. The principle of non-refoulement is considered to be an international customary law, which means all states, both contracting states as well as non-contracting states, in the conventions of refugees and/or human rights that prohibit the expelling, have an obligation not to return or extradite a person to another State where there are substantial grounds for believing that he be in danger of being subjected to torture.  

The mandate of UNHCR, besides providing protections to the asylum seekers and refugees from an expulsion, and to execute the process of Refugee Status Determination, UNHCR also tries to assist the refugees in finding a durable solution for them. The durable solutions are; voluntary repatriation, resettlement to a third country, or local integration.

Specifically for the management of Rohingya refugees in Aceh, the Government of Indonesia requests to UNHCR to accelerate their process to be resettled to a third country in the period of one year. To support the process of moving to a third country, the refugees who will be interviewed will be moved temporarily to Medan and are placed in a hotel. After the whole resettlement process is conducted, the refugees are returned to Aceh.

CLOTHING, FOOD, AND HOUSING FOR THE REFUGEES

There are three aspects of basic needs that become the main issue in lives, namely: clothing, food, and housing. With the limited rights owned by the refugees and asylum seekers, these three things remain the basic needs that should be fulfilled when they reside in a place. It is not an exception in Indonesia, as their transit country to go to a permanent solution being pursued by UNHCR.

The placement of the asylum seekers and refugees are mostly in shelters or community housings, the rest are placed in immigration detention facilities, and the rest are independent refugees.

To support the basic needs of the refugees, the Government of Indonesia cooperates with IOM through a Cooperation Agreement in Managing Irregular Refugees signed in 2000. This agreement becomes the legal basis of the operations of IOM in Indonesia. In every cooperations with any government agencies, IOM always sign a MoU with related government agencies, both local as well as national.

In line with the agreement with the Government, IOM is allowed to provide monthly support of an average of IDR 1,250,000/month for adult, and IDR 500,000/months for children below 18 years old. The amount of money provided to fulfill the needs for food, transportation to the Clinic or Hospital, and other needs that are not fulfilled directly by IOM. This support is provided if the refugees concerned are not receiving daily meals.
The monthly allowance standard provision by IOM also differs according to the refugee placement.\(^78\)

In Aceh, all refugees were placed in camps because Aceh was not equipped with Immigration Detention Center facilities. The consequence of placement is that the monthly allowances were not provided. This arrangement is based on the fact that all basic need have been provided by inside the camps, i.e., food has been routinely served from the common kitchen, health clinic with ambulance facilities (Blang Adoe camp), or doctors’ visits (other camps), clean water, public toilet, and rooms to stay in. It was also applied because Aceh was considered as interception site\(^79\) which meant they would be transferred somewhere else soon.

However, to fulfill other needs, IOM collaborated with camp manager gave aid package to all refugees which contained two cups of instant noodles, bread, snacks, toiletries, and special packages for pregnant mothers and children\(^80\). The package is given once a week to every camp in Aceh. But most of these packages were not used by the refugees. The content of the packages were not used, but were sold instead by the beneficiaries to get extra money for covering daily needs which was not provided by IOM, since they were not allowed to work.

Different from Rohingya met in Jakarta, SUAKA found out that allowances were only given to refugees who fell into non-productive category.\(^81\) So, if a family had three productive members and one elderly person, the allowance would be given to one person only. All the refugees lived independently. With the same nominal amount, refugees must be able to meet their daily needs.

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\(^{78}\) Ibid.

\(^{79}\) Interview with Rohingya refugee FH (60/M), 23 June 2016.

\(^{80}\) Interview with Rohingya refugee in various camps and interview with IOM (21/10).

\(^{81}\) Interview with Rohingya refugee FH (60/M), 23 June 2016.
These two arrangement models were also different from the model applied for refugees in Medan and Makassar. SUAKA found out that all Rohingya refugees in Makassar and Medan were placed in shelters which were managed by Immigration, IOM, and third parties who provide the shelters. Monthly allowances with similar amount and provision were also given to the refugees.

In Makassar, most of the refugees were previously transferred from other places such as Manado IDC, Kupang Immigration, Madura Immigration, Bali IDC, etc. SUAKA found out that each refugee and asylum seeker arrived at Makassar, was initially placed in Makassar IDC before decided whether they could stay in a shelter or not. In average, they had to stay in Rudenim Gowa in the period of 40 days to 4 months before being transferred to a Shelter. In some cases, female family members and children were immediately placed in shelters, or they must wait several days in Rudenim to wait for available space in the shelter.

Currently, there are no Rohingya refugees placed in Rudenim Makassar. With the capacity of 120 people and were inhabited by 180 people (over capacity), all detainee in Makassar IDC were refugees and asylum seekers dominated by Afghanistan nationality 70%, and there was a seventeen year-old boy. But there was no immigratoir who lived in Makassar IDC.

IDC Makassar had a schedule for outdoor recreation and activities outside the detention cell but was still in the area of IDC. Recreational activities were always under the supervision of IDC staffs. IDC also facilitate those who have more capacity for language, Qur’an recitation, or others, to teach the community/communities around IDC. As an example, IDC facilitated some people (detainees) who were fluent in reading the Qur’an to teach in a nearby Islamic boarding school. This was arranged in order to reduce the stress of the detainee.

In contrast to refugees and asylum seekers who were in shelters, there were obstacles for Immigration to conduct monitoring. Therefore, Immigration provided counseling to immigrants.

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82 Interview with Rohingya refugee 7 August 2016.
83 Interview with Immigration Detention Center of Gowa, Makassar, 9 August 2016.
84 Ibid.
who were outside IDCs to not start riots and to respect the culture in Indonesia. As for outreach to local communities, Immigration submits the matter to the Social Service function. Related to monitoring functions of the Immigration, currently there is no steady monitoring mechanism for the refugees living in shelters. The monitoring system invented in the field was never the same, even in a different shelter in the same city. However, if the refugees were asked to choose, of course, refugees and asylum seekers prefer to stay in a shelter than in IDC.

Makassar Social Services also took the role of the guardian for Un-Accompanied Children (UAC). Of the 24 shelters in Makassar, one shelter intended for children's UAC and managed by the Makassar Social Services in coordination with Makassar Immigration Office. There were 115 children who were all under the guardian of the Social Services of Makassar, with the shelter capacity reached 130 UAC. Social Services also provide social workers to accompany the children who would leave UAC shelter to adult shelter, provided various vocational activities for children, and also maximized the potential of gifted children.

There was no different with the fulfillment of the basic needs of Rohingya refugees in Medan. According to the Polonia Immigration Office, there were as many as 233 refugees from Myanmar with the number of men as many as 140 people, and women as many as 93 people. While Medan Immigration Office only handled one Rohingya people only. Overall Rohingya refugees were housed in a shelter run by the IOM, the Immigration and third party as provider of shelter. The numbers of Rohingyas who are placed in Belawan Rudenim were 44 people. Similar to the Social Service of Makassar, North Sumatra Provincial Social Service also had a special shelter for Un-Accompanied Children. The shelter is currently filled by 37 children from

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85 Interview with the Immigration Office (Class I) of Makassar City, 16 August 2016.
86 Interview with Social Services of Makassar, on 5 August 2016.
87 Interview with the Immigration Office (Class I) of Polonia, 16 September 2016.
88 Interview with the Immigration Office (Class I Special) of Medan, 13 September 2016
89 Interview with Immigration Detention Center Belawan, on 14 September 2016.
Afghanistan of a capacity of approximately 50 people. No children with other nationality lived in this shelter. Shelter is run based on the Decree of the Head of Social Services of North Sumatra since 2014, which also invited IOM to cooperate in the provision of children's needs.

RIGHT TO HEALTH

Indonesian government provides health care services of the refugees in the hospitals that work together with IOM. This guarantee is given outside of the meager monthly allowance given by IOM to refugees each month. Nevertheless, the refugees still have to pay their own travel costs to access medical treatment.

If a refugee is treated in hospital, all the costs incurred will be borne by the IOM. But if the refugees want to get treatment from health centers or other medical service providers which has no cooperation with IOM, then the refugees must pay his/her own costs incurred.

However, there were obstacles encountered by refugees in accessing health services. As an example of the Rohingya refugees who were in Jakarta. Since the distance between a residence with CWS office was quite far and there was pretty much hassle in the disbursement process that took more than a day, sometimes the cost of treatment not be reimbursed because it is not commensurate with the cost to be incurred for disbursing funds.

In some precarious cases, IOM's guarantees were not able to meet the emergency needs of refugees. As in the case of M (31/F) in Makassar. M is a citizen from Aceh who was married to Rohingya refugees in Malaysia on 2000. M failed to give birth to their fifth child due to the bleeding that could not be controlled by a midwife. At that moment, they did not have sufficient money and the mother was too tired to travel independently to the hospital. Two years later M gave birth to her sixth child, but in fact the hospital costs could not be covered by IOM because she is a citizen of Indonesia.

In Jakarta, there were also cases of Rohingya families who due to circumstances could not be improved, the wife should undergo delivery by cesarean section. Costs incurred could not be covered by IOM and CWS, but the IOM referred to deliver in hospital which had link Dompet Dhuafa, a religious based charity organization. When the mother was already in a state of emergency to give birth, the family could not go a long way independently to Dompet Dhuafa Hospital in Tangerang, and chose perform labor in a nearby hospital. Payment was finally covered by a stranger who felt sorry for this family.

There were also cases where a Rohingya, JA (28/M) in Makassar, realized after the healing period was over that his genital organ was operated because of Urinary Tract Infection (UTI) he suffered. JA said that the early diagnosis was kidney stone disease, but further developments were not known by JA. Once the surgery was done, JA realized what was happening to him. JA felt that he still needed medicines because he felt that he still had problem when urinating, but it was no longer provided by the hospital because he was deemed fully recovered.

Previously, in each shelter there was a doctor who came once a week to provide a doctor's consultation. But six months later the policy was changed to a box request for the doctor. If a refugee was sick, s/he could put requests in the box provided, and the IOM officer would collect

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90 Interview with social workers of North Sumatera Social Services, on 13 September 2016.
91 Interview with Dinas Sosial Provinsi Sumatera Utara, tanggal 13 September 2016.
92 Interview with Rohingya refugee in Jakarta. If there are refugees who wanted to take their monthly allowance or medical bill reimbursement, they have to get it in person to the Cruc World Service (CWS) office.
93 Interview with Rohingya refugee in Makassar.
the request once a week and process the request. But in practice, even being requested, doctors rarely came to visit.

If refugee experienced mild pain, they preferred the nearest health center although it must be paid by themselves. If there were obstacles in the language, they usually brought along a fellow Rohingya who could speak Indonesian to communicate with health center staff.

Buying drugs in the shop or paying their own costs in the health center or hospital, became a choice because the existing procedure was considered complicated and too long for refugees to process if the medical needs can no longer be delayed.

Meanwhile, all health services in the refugee camp Adoe Blang, Aceh, were provided by Suka Makmur sub-district health centers in collaboration with the IOM. Health Center opened health clinics posts routinely once a week to practice medical consultations and early medical treatment. The facilities available were fairly complete with medical equipment and standard medicines and also ambulance that can be accessed through the camp manager.

Common complains in Blang Adoe were digestive problems, cough, colds, minor injuries, sprained arm or ankle. Reproductive health education and care for pregnant women were also available. If there was a medical state that needed advanced care, the clinic would refer patients to Cut Mutia Hospital that also collaborated with IOM.

Similar thing applied in Bayeun and Langsa, where health officials in collaboration with the IOM made regular visits to the camps, with available referral to the major hospitals in each region provided if an advance medical action needed.

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94 Ibid.
95 Interview with Aksi Cepat Tanggap (ACT) camp Blang Adoe, 4 September 2016.
96 Interview with medical staff of the clinic in Blang Adoe camp, on 4 September 2016.
RIGHT TO EDUCATION

As a preparation for a departure to third country, IOM in collaboration with private organizations which provide language courses opened class courses for refugees. Access is open to all refugees in Indonesia.

In each shelter in Makassar, SUAKA find courses other than English, such as mechanic course, excavator driver training and electrician training.

Vocational activity became interesting because in addition to the four courses provided by the IOM above mentioned, Rohingya refugee communities also opened classes for those who wanted to have a certain expertise. Teachers for these unique classes also came from the Rohingya refugees themselves. There was reciting the Qur'an class, Indonesian Language class and Computer Class.

Researcher interviewed R (26/M), who is an expert in the field of computer programs. He took the initiative to open computer classes for his younger Rohingya friends. He created a classroom himself in his room, while the provision of equipment he got from his Indonesian friends. Some computers were given to him in a damaged condition, but on his hand those computers could be operated again. R was very pleased with his positive activity, apart from its benefit to use his time as he was waiting for a third country, it can also provided a positive impact to fellow refugees.

Photo 8 A school built from the donation of Dompet Dhuafa in Timbang Langsa shelter.

In addition to English language and other skills, there were some attempts of refugees to educate their children in formal schools. Some of these efforts succeeded in the approach of the parents of children displaced and assisted by both the Chairman of the local neighborhood\(^\text{97}\) as well as by fellow Indonesian\(^\text{98}\). There were also the efforts of the Rohingya refugees who wish to

\(97\) Interview with Head of Neighborhood in Jakarta, on 23 Juni 2016.

\(98\) Interview with Rohingya refugee MQ (32/M), on 7 August 2016.
continue their studies at a university in Makassar, but failed due to lack of necessary documents.  

SUAKA found out, almost all refugees who tried to attend the formal education were refugees who were still in a reasonable primary school age. More on efforts to get the right to basic education for children is described in a separate chapter in this research report.

RIGHT TO WORK

Because Indonesia has not ratified the Convention in 1951, Indonesia has no obligation to provide jobs for the refugees. In a regulatory level as well, the refugees are forbidden to do paid work.

However, there was a phenomenon that occurred in the field of refugees who tried to meet their daily needs independently because they could not fully rely on the assistance provided. Some of the phenomenon could be seen in the news media lately about the refugees who worked in Bogor and refugees who are victims of pimps in Batam.

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99 Interview with Rohingya refugee J (M).
100 Based on the Law UU No. 6 of 2011 on Immigration, every people who entering Indonesia territory without any proper document will be followed under Immigration Law. However, if they declare themselves as an asylum seeker, they will followed under special regulation of Immigration Directorate General Act on the Handling of Illegal Immigrant No. IMI-0352.GR.02.07. Due to the absence of proper documents, those refugee and asylum seekers are not allowed to seek paid job.
101 m.tribunnews.com/nasional/2016/08/10/6-warga-irak-tertangkap-di-lima-salon-di-cisarua Accessed at 15 November 2016 at 05:09 pm.
Several other phenomena discovered by SUAKA in the field. One of them is R (16/M), unaccompanied refugee children who was staying with friends in the camps in Aceh. He had to try to earn money in order to communicate with his parents in Myanmar. There were also Rohingya refugee children who joined local fishermen to go fishing. They were given wages that were typically used to buy mobile phone credits, clothes, and stroll around the city to get rid of boredom in the camp as well as other needs. All these things have been done in a good faith of the refugees and also the openness of the local community.

Geutanyao Foundation (YG) as local NGO still has productive programs for the three camps in Aceh. In Blang Adoe YG has an agricultural program. In Bayeun, YG facilitates the refugees who are interested in an internship in automotive workshops, and also facilitate them to raise ducks and plant. Similar things happened in the camp Timbang Langsa, where YG facilitates a duck farm in the location of the camp, even though not all refugees keen to do so.

In Makassar, the Head of the local neighborhood gave permission and freedom to the Rohingya refugees to cultivate vacant land he owned. The Head does not provide wages nor was he requested to get salary by these Rohingya refugees. But usually these Rohingya refugees gave him part of the typical plants of Myanmar to the land owner after each harvest.

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Photo 11 For additional income, this Rohingya refugee takes the initiative of selling cooking needs and snacks in the shelter.

RIGHT TO SETTLE A FAMILY

Before the establishment of JCM in Makassar, there are several cases that force immigration to intervene and to give an explanation to the relevant government agencies. As in the case of the Rohingya refugees who married an Indonesian citizen and obtain a marriage certificate,

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103 Interview with two Un-Accompanied child Rohingya refugee in Aceh, 9 September 2016.
104 Interview with Head of Neighborhood, I (36/F), 16 August 2016.
Immigration immediately approached concerned KUA and provided an explanation of who were the refugees and asylum seekers.

Many marriages among refugees occurred in camps in Aceh. From the findings of SUAKA, marriage between Rohingya refugees and citizen occurred when the citizen worked as migrant worker or maids in Malaysia. Surely not the least of these marriages was bestowed children.

It is acknowledged by all the parties encountered by SUAKA that marriage between two consenting adults was something that could not be intervened. Marriages could be conducted even if it was only recognized by religion. There was no mechanism of civil registration issued by the relevant government agencies for both inter-marriage between the refugees and between refugees and the citizen. This certainly resulted in the fulfillment of other rights as Indonesian citizens of the citizen who married a refugee or of the children born to them.

**REFUGEES WITH LEGAL CASES**

Researchers also conducted interviews with the Makassar City Police Office (Polrestabes) to know the police role in maintaining the security of the city related to the presence of refugees and asylum seekers.

Polrestabes Makassar generally only dispatches personnel if there was a request from the Immigration, IOM or UNHCR to assist their activities in the field. So far, there is no record of crime committed by refugees, or a direct complaint received by Polrestabes Makassar on refugee-related issues. As for problems that arose in the field, it is usually reported by Immigration to be monitored by Polrestabes Makassar. If Polrestabes Makassar needs to take action, then it must be based on the command of the South Sulawesi Regional Police.

For the prosecution of violations of domestic law, the police in Aceh was ready to do its job. There were several cases of crimes committed by the refugees, but there was no distinction with local communities when the refugees committed criminal offenses. Together with UNHCR, the Police was also active in the information dissemination of domestic law to the Rohingya refugees in Aceh, although there was no standard procedure or guidelines for dealing with refugees. Each case handled by the police, would always be communicated to UNHCR and local Immigration Office. In Aceh, found out at least three cases of refugees with the law cases.

However, as far as SUAKA could investigate, if the refugees were the victims, not a lot of things could be done because there was fear among refugees themselves to report to the authorities for fear to be detained in IDC, to be transferred to a worse shelter/camp or other problems might arise and would have a negative impact to the refugees.

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105 Interview with Aksi Cepat Tanggap (ACT) camp Blang Adoe, 4 September 2016.
106 Interview with Lhokseumawe regency police unit, 10 August 2016.
107 Discussion at the initiatives forum for the National action Plan to address Immigration detention in Indonesia, Jakarta, 9 November 2016.
"I have no problem with that. It is better for them to become Indonesian citizen, thus it became clearer on who they are, their status and their children..."

-Nurhasanah, 47, owner of a shop near shelter in Aceh.
COMMUNITY ACCEPTANCE

Aside of IOM and UNHCR, directly collaborating with Indonesian Government, there are also many Local NGOs participating in the handling of refugees and asylum seekers in Indonesia. Of the four visited regions visited, Aceh is the most prominent one, at least in the period since May 2015. Since the refugee influx in May 2005, many local as well as international joined the efforts on handling the Rohingya refugees.

The involvement of local NGOs and civil society organizations had significant contribution in building the capacities in addressing the ever increasing flow of refugees and asylum seekers. The involvement of local organizations can assist the local community acceptance of refugees and asylum seekers in certain area. Local organizations can function as a mediator between government, international organizations and local communities, to provide understanding on the issue of refugees or asylum seekers with local context.

This chapter will explore the local community perception concerning their acceptance to the refugees and asylum seeker in their areas.

COMMUNITY STIGMA

The knowledge of community on the refugee issue had broad impact to their acceptance to asylum seekers and refugees in their social surrounding. Ignorance of factors to the presence, and culture of the asylum seekers and refugees incites misunderstandings prone to major conflict potentials in Indonesian society.

This misunderstanding incites stigma to the asylum seekers and refugees. In Aceh, the stigma to the Rohingya refugees is that they are uneducated and uncivilized people. As had been described in previous chapters, the Rohingya ethnic are the victim of decades of systematic persecution by Myanmar government, rendering them to live in slum areas lacking sufficient living standards for decades.

Thus it is imaginable that, once the refugees and asylum seekers, the volunteers working in the shelter would start the work by teaching them healthy and clean living. The volunteers tried to change the way of life of Rohingyas regarded to be unfit to health standards.

The volunteers patiently taught them to maintain clean environment surrounding their shelter locations. The human waste piling in the toilet, or even everywhere, food waste and household rubbish are not properly disposed. The habit of spitting out betel chews randomly and the indifferent attitude to cleanliness in their own shelters. These are some examples of cases addressed by the volunteers.

Certainly the concerns of the volunteers to the dirty habits of the Rohingya refugees are related to the implied health impacts. The women, even, have to be briefed about their reproductive health, the importance of wearing and washing underwear, and the use of sanitary napkins at their menstruation period. The women are also briefed on the importance to keep the hygiene of their children, as bathing is not part of the habits of Rohingya refugees.

In Medan and Makassar, there is also stigma that the Rohingya refugees do not have clean life habits. Even though in Medan and Makassar the lived in community houses, the clean life habits

108 Interview in Lhokseumawe, Aceh, 4 September 2016.
109 Interview in Blang Adoe, Aceh, 3 September 2016.
110 Ibid.
are not evenly distributed amongst the Rohingya refugees, although IOM provided high standard services for Rohingya and non-Rohingya refugees.

Despite of routine briefing, IOM and other shelter managers and related health authorities still faces field difficulties. This had triggered another stigma, i.e. that Rohingya refugees are indifferent and have dissident character. The stigma arises due to the fact that despite repeated briefings, the conditions do not get better.\textsuperscript{111}

The situation arises as there is a lack of good communication between the refugees and the organizations handling them. A typical frequent situation is when a group of refugees wanted to be moved to location they think better than their current location. When their request is not fulfilled by the managers, then the refugees would attempt destructive acts such as plugging the drainage or destroying the air conditioner. Sometime these acts are successful, but sometimes the managers ignore this.\textsuperscript{112}

The volunteers in Aceh also have experiences related to this stigma. At the early period of management, the Rohingya refugees spoiled the clothes donated to them, they wore it once then dispose it, despite of the appeal by the volunteers to wash and take care of their clothes.\textsuperscript{113}

The Psycho-social briefings provided by the various also seem to be in vain. When many organization and NGOs had completed their program in shelter, the refugees goes back to their initial habits. Briefings on the cleanliness and a non-domestic violence actions also fade away in the refugees.\textsuperscript{114}

It should be noted that these habits are not limited in Rohingya refugees, but also in refugees of other ethnicities. These behaviors, aside being legacy from their origin, also might stem from their stress and frustration during their stay here. It is not easy for the refugees, Rohingya as well as other ethnic to live outside their habit and culture, in alien country, and worsened by unclear period and future.

**SOCIAL INTERACTIONS OF ROHINGYA REFUGEES**

Apart from the negative stigma bestowed to the Rohingya refugees, the local community relatively have good acceptance to the refugees. There are some factors to the good acceptance to the Rohingya refugees. Religion and language are some of the important factors.

Most of Rohingya refugees in Indonesia had been previously living in Indonesia or at least had once visited Malaysia. Nearly all the Rohingya refugees interviewed by the researchers speak Malay or Indonesian language, even though with uneven and stuttering articulation. In Malaysia they had stayed and worked, so they are accustomed with Malay language, and it is not easy for them to readjust to Indonesian language vocabulary when they moved to Indonesia.

The ability to speak Indonesian language eases them to socially engage and communicates with local residents. Nevertheless the refugees mostly do not have the courage to initiate activity with local community, instead they tend to just react to invitation by Indonesians. Demographically, Rohingya single males are more open to engage with the community, especially to local youth, usually through playing futsal or strolling together.

In Aceh, the local community is very open to the refugees, in contrast with the instruction from the immigration UNHCR and IOM to limit the social interaction with the refugees. The refugees

\textsuperscript{111} Interview in Makassar, August 12th 2016.
\textsuperscript{112} Interview in Makassar, August 12thAgustus 2016.
\textsuperscript{113} Interview in Langsa, Aceh, 9 September 2016.
\textsuperscript{114} Interview in Langsa, Aceh, 8 September 2016.
are close to the fishermen communities that once saved them when they were stranded in Aceh waters. The refugees stated that they often visit the families in the Lapang village and Kuala Langsa fishermen village. They were treated as family members, and some are even invited to stay overnight and invited to join in fishing trips.

SUAKA team found that in Jakarta, Medan, and Makassar, generally the Rohingya refugees were not engaged in common activities with surrounding communities, except for prayers in mosque. The local inhabitants interviewed by SUAKA, admits that the Rohingya refugees are kind, and they often join 5 times a day prayers in the mosque, even though after that they directly go back to their shelter. Many male youths of Rohingya refugees in Makassar joined the fitness centers on the approval of Immigration and IOM.

Women had different situation, they are not allowed to go out alone, and such also are the girls. Women spend their time doing domestic chores such as cooking, washing, and catering the children. Besides the language constraints, also there are concerns of the fears that they will be arrested by immigration or harassed by the locals. The Rohingya, always remind themselves that they are refugees, so they had to keep distance to Indonesian people. Should they face problem, they will keep it to themselves, as reporting it would only lengthen and complicate the problem.

The relatively good relation between Rohingya refugees and local residents does have some problem. The Rohingya refugees in Aceh started to be sufficiently confident to borrow or rent motorcycle to the local residents, although this is an offence, as it is against the Immigration rule that forbid the refugees, in general, to use motor vehicle. There is all ready traffic accident that involve Rohingya refugee in Aceh, that fortunately can be settled informally

In Makassar, there is a problem that the refugees often farm on idle land without consulting the land owners. In Makassar many times, researchers found idle lands near the shelter used by the Rohingyas to farm, those known by the owner as well as those unknown by the owner. Should they ask for permission, these Rohingyas will not be employed by land owners, but voluntarily they would share part of their harvest to the land owner.

In Medan, there is one Rohingya refugee who took the initiative to ask for permission to cultivate the land of local residents. Unfortunately due to a dispute among Rohingya fellow regarding the boundary of the land and crop, the local residents finally terminated the license.

Many Rohingya children in Makassar were being bullied at school. Rohingya children of primary school age in Makassar are permitted to enroll in the public schools. However, they were often beaten, stoned, robbed and got their bag dumped. This happened both to the female and male children. Their parents venture to submit this issue to the school and the IOM but because of bullying to children continues to happen, the parents choose to remove their children from school.

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115 Interview in Makassar, 12 August 2016.
116 Interview in Makassar, 6 August 2016.
117 Ibid.
118 Interview in Makassar, 7 August 2016.
119 Interview in Blang Adoe, Aceh, 3 September 2016.
120 Interview in Langsa, 8 September 2016.
121 Interview in Makassar, 12 August 2016.
122 Interview in Medan, 17 September 2016.
123 Interview in Makassar, 7 August 2016.
From observations and interviews conducted by the SUAKA research team with local residents in the four regions, we found that on most people still associate the problem of Rohingya with religious conflict between Muslims and Buddhists. In reality, the religious conflict in Myanmar is a derivative of Myanmar government policy that does not recognize the Rohingya citizenship. However the religious sentiment appears to induce empathy of the Indonesian against Rohingya refugees.  

The community does not object on their present, because to their knowledge, the refugees were in Indonesia on foreign funds. However, as already mentioned above, there are many who misunderstand the source and reason for the assistance provided to refugees. This misunderstanding is the potential conflicts that must be aligned with the social campaign to the bottom level of the government.

The community also thinks that the refugees will only be living here temporarily, as they will immediately look for a new country. In fact many refugees, not only the Rohingya, who lived up for years in Indonesia. This creates a sense of concern from local residents, especially the refugees who already created social bonding due to everyday interactions. Local citizens interviewed by SUAKA are hoping that the government and the organizations responsible for them immediately transfer them to another country so that they will soon be able to live a normal life. As long as the Rohingya refugees do not cause problems, the local community does not mind regarding the fact that the Rohingya refugees are living amongst the people.

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124 Interview in Makassar, 15 August 2016.
125 Ibid.
126 Interview in Medan, 17 September 2016.
127 Interview in Makassar, 12 August 2016.
MIXED MARRIAGE BETWEEN ROHINGYA REFUGEES AND INDONESIAN

In general, lack of socialization to the local community about the refugee caused the rise of relationship between citizens and refugees. Generally those who got married to refugees do not understand that these foreigners are asylum seekers who do not have a citizenship identity. However, the respondents of this research realized that the decision from the two adults to undergo marriage is a private matter of choice of each individual and can not be intervened.

In cases involving the Rohingya refugees, the research team found no cases of marriage with a citizen of Indonesia that occur in Indonesia, in the four research fields. All cases of marriage between Rohingya refugees and citizens that found by SUAKA were happened in Malaysia. In these cases, marriage is often not complemented by legal documents, what really happens is that married religiously facilitated by the local refugee community religious leaders. There are some cases that are found that regarding this kind of marriage, UNHCR issued a notification stating that a citizen is really the wife of a refugee under the protection of UNHCR.

That situation becomes more complicated when mixed couples have children born in Indonesia. SUAKA met some couples in Makassar, who got married and gave birth in Malaysia, then moved to Indonesia and again gave birth. This Indonesia’s citizen was once a female worker who worked illegally in Malaysia, and when she leaved Malaysia, her documents were still being held by the employer. The situation resulted in legality problems of their children and the fulfillment of basic rights of the child. This issue will be discussed in the next chapter.

LOCAL INTEGRATION

SUAKA also inquired on local integration if Rohingya refugees could obtain Indonesian citizenship. This question is trying to explore further how much community acceptance and the aspirations of Rohingya refugees themselves. The research team understand the local integration is not possible due to the Indonesia’s existing legal framework, even discourse on this subject is also rarely mentioned. Officials whom SUAKA asked for a feedback agreed that local integration is not possible because the law does not regulate it and there are still many problems faced by the Indonesian people considered.

Rohingya refugees basically, seek certainty about their citizenship, legality, and identity documents. Those things are considered more important than the choice of the country where they want to live as a third country. The main needs of refugees Rohingya is a sense of security, to immediately be able to continue with their lives. Their future is increasingly unclear with limited access to jobs and education. Rohingya’s parents interviewed by SUAKA expressed their concerns regarding their children who continue to grow up without enough education provision.

Local community leaves all policies of Rohingya refugees handling to the government, as long as there is clear regulation with comprehensive dissemination. Nevertheless most of the local

128 Interview in Makassar, 5 August 2016.
129 Ibid.
130 Interview in Makassar, 7 August 2016.
131 Interview in Makassar, 17 August 2016.
132 Interview in Makassar, 7 August 2016.
133 Based on Interviews with Rohingya refugees in Aceh, Jakarta, Medan and Makassar.
134 Interview in Medan, 15 September 2016.
135 Interview in Makassar, 6 August 2016.
136 Interview in Makassar, 15 August 2016.
citizens interviewed by SUAKA are pessimist that there will be inevitable conflicts occur.\textsuperscript{137} The expressed prerequisite to the idea of local integration is: there is no problem as long as the refugees can be a good citizen and not creating problems, or as long as they can engage with the local community.\textsuperscript{138}

\textsuperscript{137} Interview in Medan, 18 September 2016.
\textsuperscript{138} Interview in Langsa, Aceh, 8 September 2016.
“Every child has the right to live, grow, and develop and rights to be protected from violence and discrimination.”

- Indonesian 1945 Constitution, chapter 28B, article (2)
THE FULFILLMENT OF THE RIGHTS OF CHILD REFUGEES

Conflicts occur in one country may affect anybody. Conflicts make anyone were forced to move in order to save their lives, without heeding to the conditions of the affected families. It is no exception to the children, either child who moves with their families or children who have to move on their own.

Various aftereffects have the potential to be experienced by children who move about, because they have special needs for their growth and development while they don't have any certainty to stay long in one place until they found a third country. Unfortunately, to obtain a certainty to live and becomes a citizen does not happen in one, two or even seven years into the future. And they lost the time to cultivate themselves to face the future.

They are vulnerable to experience violations to the rights of children, during their departure from home country, while on their way, when in places of transits, until when they reach the destination country.

The Indonesian constitution guarantees the fulfillment of the rights of children without any discrimination. This is strengthened with the enactment of Law No. 23 of 2002 regarding the Child Protection, which then amended through Law No. 35 of 2014. The law does not define the refugee children, however certainly based on the principle of non-discrimination contained in Article 28B paragraph (2) of the 1945 Constitution, child refugees in Indonesia have the rights to obtain their rights for the best interests of the children for their future. Although Indonesia has ratified the Covenant on the Rights of the Child or CRC in 1990, it does not guarantee that the fulfillments of the rights of the child refugees are met.

Actually, there is one international document adopted by the United Nations that can be a reference in treating children on the move, namely the Principles for the Children on the Move. Nine principles contained in this document can be a reference for the policy makers to treat children by promoting the best interests of the children.

Various guarantees on the fulfillment of the rights have been mentioned in the laws, however in practice, the fulfillment of the child refugees does not happen.

DISCRIMINATORY CIVIL REGISTRY

Marriage

Due to the uncertainty of the citizenship status, Indonesian Citizen who is married to refugee, particularly Rohingyas, cannot have their marriage registered. Of all the respondents under the category of intermarriage households who were interviewed by SUAKA, there was not a single marriage that registered in the Religious Affairs Office (KUA). Instead, the findings of SUAKA in Makassar showed that marriages that are already listed in KUA, were canceled. This is also the factor that all intermarriage family does not have Family Cards (KK). And if the Indonesian citizen of the mixed marriage wants to process the Family Card, then s/he can not record the partner who is a refugee. Uniquely, SUAKA found a fact that if an intermarriage family wants to obtain a Family Card, then the wife should make a certificate of divorce.

As a result of the absence of marriage registration for an Indonesian Citizen who marries a cross-border refugee, it is difficult to obtain a Birth Certificate for the child of the mixed marriage.

Birth Registration

A Birth Certificate is an essential document in the lives of the Indonesian citizens. Based on the document, a person can be considered and protected by the government of Indonesia. Principally, Indonesia adheres to the principles of *ius soli* and *ius sanguinis*. *Ius soli* means that the right of a person to obtain a citizenship when s/he is born in the territory of Indonesia. While *ius sanguinis* means a person has the right to obtain a citizenship of the biological mother or father if an Indonesian citizen.

Law No. 24 of 2013 on the Amendment of Law No. 23 of 2006 on Population Administration also confirms that all children born in the territory of Indonesia have the rights to obtain a Birth Certificate Citation.\(^\text{140}\) It includes children born outside of a legal marriage according the Indonesian marriage law.\(^\text{141}\)

However in practice, the children refugees who were born in Indonesia as well as those born in intermarriages between the refugees and Indonesian women do not have their Birth Certificates. Those children only obtain a birth certificate from the medical personnel who handle their births.

The District also does not feel authorized to issue the Birth Certificates of children born in Indonesia out of marriages of a pair refugees, as well as pairs of intermarriages. On the contrary, SUAKA found a case in Medan where the District issued a Certificate of not being an Indonesian Citizen for a child born in Indonesia resulting from intermarriage between an Indonesian woman and a refugee.

The absence of a Birth Certificate of course complicates the children –even children born in Indonesia and from an Indonesian woman, in accessing public education, health services, and others. When referring to Principle No. 6 from the Principles for the Children on the Move, then there is no illegal child –children should be protected from any forms of discriminations. The national child protection system should be able to guarantee that the rights of the children on the move are fulfilled.

RIGHT TO EDUCATION

As a result to the absence of an identity as well as the education system in Indonesia that has not been able to accommodate child refugees, there is no recognized formal education available for child refugees. In Makassar, there are four children from intermarriages who can attend formal private school and free of charges. There are not many private schools that are able to provide that, even in Makassar alone. There are several private schools that are willing to accept children from intermarriages, but generally the fees that should be paid are quite expensive for the parents. While in Jakarta, several Rohingya child refugees can attend Early Childhood Education classes and also become “entrusted” students in local elementary school.

\(^{140}\) Researcher was unable to meet with the Directorate General of Population and Civil Registry. However from various sources of information when conducting interviews at the Ministerial level, the researcher found information that children born in Indonesia can obtain a Birth Certificate only by registering the name of the mother who gave birth to the child.

\(^{141}\) This right is guaranteed in the result of the judicial review of Matrimony Law by the Constitutional Court on February 2012. The Constitutional Court officially revised the content of Article 43 paragraph (1) of Law No. 1 on Marriage, which reads: “Children born out of wedlock only have a civil relationship with their mother and mother’s family and with the man as their father which can be proven based on scientific knowledge and technology and/or other evidence under the law to have a blood relationship, including a civil relationship with their father’s family.”
Being “entrusted students” in the end becomes a common practice for child refugees.\textsuperscript{142}

'Entrusted' in this case is the children may attend education at the school, eventhough they don't obtain a certificate. Each semester, the school may issue the student report card. However, there are no child refugees who obtain the school diploma.

In Aceh, at least there are six Rohingya children at the ages of elementary school who attend the teaching and learning activities in a public school. All costs incurred are borne by IOM. However the student reports are issued by the Task Forces who handle them, because the local Education Department does not have the competence to issue report cards for them.\textsuperscript{143}

It is admitted by the Ministry of Education and Culture\textsuperscript{144} that an education system for child refugees is unavailable. The Directorate of Special Education and Special Services (PKLK) –that handles children with special needs, has also never received instructions to fulfill the rights of these child refugees.

In fact, PKLK also handles children who have certain characteristics such as child workers that do not necessarily uproot their working activities. However it still works together with the Ministry of Labor to provide education services in the form of shelters with social workers available to provide formal education. So far there is no government institution as well as international institution that approach the Ministry of Education and Culture, specifically the Directorate of Special Education and Special Services (PKLK) to provide formal education facilities for child refugees.\textsuperscript{145}

\textsuperscript{142}There are also efforts from several Rohingya refugees who have passed the secondary and high educations and live in Myanmar to continue their study in colleges in Makassar with the support of a sponsor. However the efforts cannot be granted by schools and universities in Makassar City due to the lack of system.

\textsuperscript{143}Interview with Geutanyoe Foundation

\textsuperscript{144}Interview with the Directorate of Special Education and Special Services, on 28 October 2016.

\textsuperscript{145}Ibid.
However based on the national education system, the Ministry of Education and Culture still needs formal identities from the students, which in practice are difficult to be obtained by the child refugees. The identities are needed if the children want to participate in the national exam and to obtain the school diploma. If they are already in the Basic Education Database system (Dapodik), then the Directorate of Special Education and Special Services (PKLK) can intervene to provide services.

Several NGOs and also the society who are concerned of these refugees have conducted vocational courses several times, however that is not enough for the educational growth and development of children at the age of basic education that should be received by them.

**CHILD REFUDESS OF INTERMARRIAGES WHO ENTER INDONESIA**

Generally, intermarriage occurs due to the working interactions among the Indonesian Migrant Workers and the refugees. Unfortunately, the Migrant Workers who have worked long enough overseas are increasingly far from being recorded as the Indonesian citizens. Apart from whether their departures were documented or not, most of the Indonesian citizen respondents with the category of intermarriages interviewed by SUAKA no longer have Indonesian identity cards. SUAKA found that all these intermarriages were only recorded by the ulamma (cleric) council of Rohingya community in Malaysia.

If the children of the intermarriages are born overseas –many cases were found in Malaysia, then the children immediately obtain a refugee card from UNHCR. However if the family of the intermarriages enter the Indonesian territory, then UNCHR can no longer protect the Indonesian Citizen pair as well as the children born from an Indonesian mothers of the intermarriages, with the argument that the Indonesian Citizens can still obtain protection from the state (Indonesia).

As a result, when an Indonesian Migrant Worker returns home without an Indonesian Citizen Identity and the status as refugee has been revoked, then s/he no longer have any identity while in Indonesia. In Malaysia, family of intermarriages can still be protected by UNHCR. This is because the principle of refugee according to the definition adopted by UNHCR are those who are outside of their home country, without any exception to a person who admits to be an Indonesian Citizen and married to a refugee, which automatically covered by the protection of UNHCR for intermarriage with a refugee outside of Indonesia.

Intermarried couple who have reside long in Malaysia generally also have children who were born in Malaysia, however are not recorded anywhere except the UNHCR. Similar to Indonesia, the child only has a “birth notification” from the medical personnel who handled the birth process.

**UNACCOMPANIED CHILD REFUGEES**

Although with a limited resources and capacity, the Social Services of Makassar and Medan have actively provided shelters for Un-Accompanied Children refugees. These children are those who fled from their home country without parents or guardians to accompany them while they are on the move.

The Social Services of Makassar City has fostered 115 children of various nationalities, while the Social Services of Medan City has fostered 37 child refugees who come from Afghanistan. In

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146 In the sense of a documented and un-documentd migrant workers.
147 Interview with the Social Services of Makassar City, 5 August 2016.
the child shelters, regulations as well as punishments whenever the regulations are violated are applied. There are also non-formal learning activities provided by the social workers who are also the personnel of the Social Services.

The special shelters for unaccompanied children are entirely funded by IOM. However frequently the Social Services also distribute aids from institutions or individuals for those children.

SUAKA did not find any Rohingya child refugees who are placed in special shelters. Generally unaccompanied Rohingya children attach to other Rohingya families, either pure marriage as well as intermarriage, to obtain guardians. Nevertheless, the UNHCR case numbers owned by the child as well as the guardian family is not unified.

For Rohingya refugees, guarding the children this way is better than to place them in the special shelter which opens the possibility for the children not to be able to go through difficult situations alone. Usually, the family who accompany the children builds communications with the parents of the children to ensure that the children do not lose communications with the parents.

**THE PLACEMENT OF CHILD REFUGEES**

Since the adoption of the Directorate General of Immigration Regulation No. IMI-0352.GR.02.07 on last April 2016, the Immigration has started to remove the children from the Immigration Detention Centers and place them in shelters managed by IOM. Until now, there is no Rohingya child that is detained in the Immigration Detention Centers both in Makassar as well as in Medan.

However, in the Immigration Detention Centers of Gowa, Makassar, there is a child at the age of 17 years old who is still in the Immigration Detention Center. While in the Immigration Detention Centers of Belawan, there are still several children who live in the IDC. This is because the unavailability of a special place outside of the immigration detention centers that is considered appropriate for the children. According to UNHCR data per September 2016, there are 903 children detained in the Immigration Detention Centers, 100 among them are unaccompanied child refugees.

Several times the respondents also reported that before they were moved to the Immigration Detention Centers of Makassar, children who are family members were separated with the parents due to the overcapacity of the IDCs. Even one Rohingya refugee respondent mentioned that he was separated with his daughter in the Immigration Detention Center in Bali. The daughter lived in a room with a family from Middle East, while he lived in a special room for single men. After there were occupants went out of the immigration detention centers, and upon his request, he and his daughter were finally placed in one room.

**CHILD ABUSE**

Similar to children from other vulnerable groups, violence against children often occurs both in the families as well as the environment.

In several shelters in Makassar, the nearest elementary school accepts children of Rohingya refugees to attend school. However after a few months of school, generally Rohingya children did not continue their school due to bad treatment received from friends at school. There were

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148 Interview with the Immigration Detention Center of Gowa, Makassar, 9 August 2016.
149 Interview with Rohingya refugee AK (39/M), 17 August 2016.
Rohingya children who suffered quite serious physical injuries, such as head wound, injuries, and bruises.\textsuperscript{150} These children also received rants and intimidating attitudes from their friends because they are not Indonesians. However the school could not handle this, so the Rohingya children were forced out of school by their parents.\textsuperscript{151}

There was no meaningful assistance that can be obtained to be able to continue school without experiencing violence, either from the Immigration, IOM, the school itself, or the parents of the students. However, there were friends who behave well.

In Medan, Rohingya children tend to detach themselves off from interactions with the local community, so there is not much interactions engaged by the children.

While domestic violence generally occurs in Rohingya families in Blang Adoe camp in Aceh.\textsuperscript{152} This violence is common for Rohingya residences, because children are regarded to be owned by the parents who are free to treat them anyhow they like. In contrary with the condition in Makassar, Rohingya children who attended school in Aceh had to be expelled from school because they intimidated their friends who are local Acehnese community.\textsuperscript{153}

\textsuperscript{150} Interview with Rohingya refugee N (12/F) and MH (14/M), 7 August 2016.
\textsuperscript{151} Interview with Rohingya refugee MQ (32/M), 7 August 2016.
\textsuperscript{152} Interview with group of children aged below 15 in Blang Adoe camp, 4 September 2016.
\textsuperscript{153} Interview with Bayeun shelter officer, 9 October 2016.
CONCLUSION

This basic research tries to view the best practices for regions with high refugees and asylum seekers population, amid a prevailing legal vacuum. The research targets the demographic aspect, the management of the government and non-governmental organizations, as well as the treatment of the surrounding community to the refugees and asylum seekers, particularly Rohingya refugees. As mentioned in the methodology chapter, this research does not represent the management of the entire refugees and asylum seekers in Indonesia.

However, several important findings on the three aspects above appear on the surface and should be considered by the stakeholders.

In terms of demography, there is a striking difference on the educational background of Rohingya refugees in Jakarta, Medan and Makassar and those who are in Aceh. Most of the refugees in Aceh are refugees who did not get education. While the refugees in Medan, Jakarta, and Makassar have educations at least until the fourth year of elementary education or until the final level of universities. This has a significant impact on the pattern of management by the government as well as the public acceptance.

While as a result of the absence of legal basis and instructions from the central government, the local government institutions should work extra and try to create breakthroughs with their limited authorities. In Aceh, the management is focused on the functions of the Task Forces formed, where all the stakeholders sit together to decide on the management solution. While in Makassar, the management by the City Government as well as the Immigration and the Police are still sector wise through JCM as the means for communication and coordination. While in Medan, the Immigration plays a dominant role in the handling of the refugees and asylum seekers.

At the central level, each ministry has also conducted sector wise management through P2MP2S Desk. Although, the authority of the Desk is only limited to the provision of recommendations due to the absence of legal basis which also becomes the obstruction for the operation of the Desk. While the managements by UNHCR and IOM are more directed as they have centralized guidelines, making it easier for the executors to do their duties.

Although each state institution is involved in one container, there is a gap in understanding the roles of each institution. Both among state institutions as well as between state institutions and the international and local organizations. This is causing excessive expectations of the other institutions so there appear an unharmonious communications and mis-coordination.

The gap on the understanding also occurs amongst stakeholders and the grassroots community. The socialization conducted by the government does not reach the grassroots community who in their daily lives are directly in contact with the refugees and asylum seekers. The findings in the field about the Neighborhood Head, who does not know that the building behind his house is a shelter for the refugees and asylum seekers, strengthen the statement. In fact, the residents often interact both positively and negatively with these refugees.

Most of the findings of SUAKA mentioned that the residents in general accept the arrival of the refugees and asylum seekers, with a condition that these refugees and asylum seekers do not cause problems at the grassroots. In some cases, a slight friction actually comes from the owner of the shelter with the local residents.