

‘Partial Protection’ for Refugees

Aspirations of Refugee Activists in Indonesia

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Introduction

On 24 February 2021, the Refugee Community in Indonesia (hereinafter ‘RCI’), a refugee representative group, together with refugee representatives in different regions and several other refugee-led initiatives, sent an open letter to the UNHCR Geneva, the UNHCR Indonesia, the embassies of resettlement countries for refugees in Indonesia (the United States, Australia, Canada, New Zealand and the United Kingdom), Amnesty International, Human Rights Watch, the International Court of Justice and Voice for Justice. The letter, sealed with thirty-four signatures and titled ‘Demands of (+14,000) Refugees in Indonesia’, outlines a plea to the governments of resettlement countries to ‘generate a more integrated approach’ regarding refugees staying in Indonesia. The letter also appeals to the UNHCR Indonesia to reopen the process of refugee status determination, which has been slowed down since 2017 (UNCHR 2017).¹ Interestingly, the letter addresses ‘the most respected and peace-loving people and government of Indonesia’ without making any demands, instead expressing thanks ‘for your tireless support and hospitality during our stay in your home’. It elaborates on how refugees in Indonesia live without any rights, states that all refugees become vulnerable during transit and even mentions the number of refugees who have died due to depression and other illnesses.

However, the demands are only directed towards resettlement countries and the UNHCR, yet fails to question Indonesia's 'ambiguous legal framework on refugees' (Masardi 2021: 58).

During my research (completed in 2021), the only publicized demand from a refugee that was directed at the Indonesian government that I found was an open letter from a young, male Rohingya refugee that was posted online on 16 September 2020 (Joniad 2020). The letter was written and posted by J.N. Joniad, a Rohingya journalist and refugee who was in transit in Indonesia. In the letter, he expressed gratitude towards Joko Widodo, the President of Indonesia, for letting the Rohingya stay in Indonesia. Furthermore, he suggested that the Indonesian government should alleviate some restrictions on refugees. He argued that 'a good policy initiative would be to issue Refugee Temporary Stay Permit Cards to refugees in transit to resettlement, thus far and allowing us to work legally'. He continued by stating that the policy would improve refugees' health and dignity, and Indonesia would receive tax income from the activities. In addition, Joniad supported Indonesia negotiating resettlement quotas with signatory states to the 1951 Refugee Convention. However, it is not clear if this letter reached the attention of the government. The open letter was not accompanied by a signed petition. The letter was also not followed up by public demonstrations or other collective actions by the Rohingya community against the Indonesian government.

Considering the long period of waiting in Indonesia, public demonstrations or collective demands by refugees are dominated by demands directed at the UNHCR to hasten their resettlement process, rather than demanding more rights in Indonesia. In 2021, there were several demonstrations, mostly by Afghan refugees in Kupang (Kaha 2021; Kanwil NTT 2021), Medan (Rahmawati 2021) and Jakarta (Arbi 2021; *CNN Indonesia*, 23 August 2021; Mazrieva and Yoga 2021), requesting resettlement in a third country. The recent demonstrations were triggered by the Taliban's victory in Afghanistan in September 2021. Following the widespread demonstrations at UNHCR offices in various Indonesian cities, Afghan refugees in some cities started to address their demands publicly to the Indonesian government. Nevertheless, the main message of demanding faster resettlement remains the same. In Jakarta, ten Afghan refugees conducted a demonstration in front of the House of Representatives on 21 September 2021, demanding that the government push the UNHCR to negotiate with resettlement countries to take refugees from Indonesia (Febiani 2021). There were also demonstrations held in front of the Governor's office in Riau (Yunanda 2021) and the Governor's office in Medan (Rahmawati 2021), where refugees asked the government to intervene in order to expedite their resettlement process. The specific demand of the demonstrations illustrates that, despite their frustrating situation, refugees still prioritize

resettlement over negotiating some rights in Indonesia. Such a strategy suggests that refugees still maintain the hope of being relocated to a resettlement country.

In this chapter, I argue that refugees deliberately choose not to demand anything that might lead to a durable solution other than resettlement (i.e. local integration in Indonesia), including any improvement of their legal status in Indonesia, in order to maintain a perception of their 'vulnerability'. This chapter highlights the points of view of four refugee activists regarding their desire to be protected by the Indonesian government. Against the backdrop of the usual discourse on the scope of the 'international refugee protection regime', which suggests that refugee rights must be granted by the state in which they reside, I aim to illustrate that the forms of protection preferred by refugees are diverse and can differ from the international refugee protection regime's notion of 'durable' protection, namely: local integration, return and resettlement (see the Introduction to this volume). Focusing on the perspective of four refugee activists who are living in the urban settings of Jakarta and Cisarua, I attempt to explain why refugees do not demand rights from the Indonesian government. I will demonstrate that some refugees' perception is that advocacy for partial rights fulfilment is better for their long-term goals and more achievable in the short term. Some ideas about how Indonesia can be more supportive of refugees, from a refugee activist's point of view, will also be discussed.

Methodology

My understanding of refugee issues in Indonesia was gained through ethnographic research conducted in 2012 on independent refugee youth in Indonesia and through doctoral research from January 2016 to February 2017. To gain more updated and relevant data, I conducted in-depth online interviews from April to May 2021 with four self-settled refugee activists: Abdul Kareem,² a Sudanese refugee living in Jakarta; Fatima, a Hazara refugee living in Cisarua; Setara, a Hazara refugee living in Jakarta; and Aadila, a refugee from Iran living in Jakarta. To have a balanced perspective, I also held several online discussions with advocates from two local refugee support groups: SUAKA (Indonesian Civil Society Association for Refugee Rights Protection) and the Jesuit Refugee Service (JRS).

I have known Fatima since 2016, when I conducted fieldwork, and have been able to follow her life story and experiences to the present. The other three participants, Abdul, Setara and Aadila, did not take part in my previous research, although I have been following their activities through social media. I contacted Setara via social media as we have long been virtual friends. My encounters with Aadila and Abdul came through

recommendations from Indonesian refugee advocates. I also collected information on refugees' perspectives in Indonesia by listening to and reading their podcasts, YouTube content and Facebook posts. The four refugee activists come from different socioeconomic backgrounds. Three of them are from upper middle-class families in their home countries and one of them came from a modest economic background. Although all four of them are now in precarious economic conditions in Indonesia, only one receives financial support from a humanitarian organization. The other three refugee activists cover their daily needs with savings and support from their family and relatives.

I chose these four activists as they have sufficient knowledge of the perception of refugees in their respective ethnic communities regarding the issue of resettlement and their expectation of refugees' rights granted in the transit country. However, I consider that my methodology has its limitations. I do not intend to generalize the findings in this chapter to represent the perspectives of all refugee communities in Indonesia, but to point out a strategic move common among a number of refugees that prioritizes long-term goals over short-term improvements to protect their needs while in transit.

No Legal Protection of Refugee Rights in Indonesia

Indonesia has been hosting refugees for two decades. Since Australia enacted its Operation Sovereign Borders policy in 2013 to stop arrivals by asylum-seeker boats and decreased its annual intake of refugees from Indonesia, refugees need to stay longer in Indonesia to follow the refugee status determination (RSD) process and wait for their resettlement, which will no longer necessarily be to Australia. Indonesia allows refugees to stay temporarily in the country, even though it has not ratified the 1951 Refugee Convention. Since 2001, Indonesia has 'outsourced' refugee management to third parties, such as the UNHCR and the International Organization for Migration (IOM). Furthermore, the 2016 Presidential Regulation concerning the Treatment of Refugees (PR 125) formalizes existing practices, but fails to address the problems faced by thousands of self-settled or 'autonomous' refugees, who live without financial support from the UNHCR or the IOM. Previous studies have pointed to the shortcomings of the abovementioned policies concerning refugees' rights in Indonesia (Prabandari, Missbach and Adiputera 2017; Missbach 2021). PR 125 focuses on how refugees are received and handled in Indonesia (regarding detection/discovery, shelter, securing/safeguarding and immigration supervision) and frames refugees as transit migrants who are not entitled to basic rights while staying in Indonesia (Sadjad 2021). Furthermore, PR 125 mentions voluntary repatriation, deportation and

resettlement as pathways for refugees to exit Indonesia, but the option of local integration is not provided (Sadjad 2021).

Another national regulation that is often referred to is the Regulation of the Directorate General of Immigration (hereinafter 'DGI') No. IMI-0352.GR.02.07 of 2016 (hereinafter the '2016 Regulation') on the Handling of Illegal Migrants Claiming to be Asylum-Seekers or Refugees. This Regulation not only addresses the management of refugees under immigration authorities and in detention centres, but also controls autonomous refugees who are not under the care of any organization. The 2016 Regulation sets out rules and restrictions: refugees are obliged to stay in a placement decided by the DGI; they are forbidden from going near harbours and airports if they are not escorted by an immigration officer; they are not allowed to receive guests overnight at their housing; they have to respect Indonesian laws (including prohibitions on working, engaging in income-generating activities, or driving without a licence and failing to maintain public order); and they have to report regularly to the DGI. These limitations have placed refugees in dire conditions.

Not Demanding Rights from the Indonesian Government

In both the national and international media, refugees in Indonesia are presented as being stuck in limbo, without any rights from the state and with few prospects for resettlement. Many refugees have been interviewed by journalists and have recounted that they are suffering under these conditions; wasting their time without access to proper education, unable to legally work, suffering serious mental illnesses and having to put their lives on hold (Bunch 2018; Taylor 2018; Lamb 2019; Timmerman 2021). In relation to the exclusion of refugees from legal integration and the withholding of refugees' basic rights, despite the fact that they have been released from detention centres, Antje Missbach employs the term 'continuum of unfreedom' to describe their situation (Missbach 2021). Missbach argues that although refugees were released from detention, they were still unable to move freely to other countries if they were not chosen for resettlement or did not participate in the assisted voluntary repatriation scheme. Despite the number of refugees now living amongst Indonesian communities, their legal and economic integration is still highly restricted (Missbach 2021: 226).

In this context of prolonged precarity, in this section I will elaborate on why refugees hesitate to publicly raise their demands with the Indonesian government and mainly push the UNHCR to either accelerate the resettlement process or to provide more humanitarian assistance. Refugees in Indonesia have, on many occasions, tried to challenge the 'rules' in the

international refugee protection regime and demand that ‘resettlement is our right’ (Masardi 2021: 148–49). Nevertheless, except for Joniad’s open letter, the refugee community rarely demands that the Indonesian government grant them more rights. From my conversations with the four refugee activists, some perspectives on why they are hesitant to confront the Indonesian government emerged.

Fatima, a female Hazara refugee who has been a volunteer in a refugee-led learning centre in Cisarua, came with her husband to Indonesia in November 2014. She said that she had never thought about making a demand on the Indonesian government because Indonesia does not have any legally binding obligations to provide for refugees.³ In addition, she acknowledged that Indonesia’s population is big and considered it fair that the government should prioritize its own citizens. This logic was shared by many refugees I met. Setara also appreciated Indonesia for ‘welcoming refugees’ and letting them stay temporarily. She underlined that ‘maybe we can request the government to give us more flexibility, but not to demand’.⁴ The term ‘request’ is preferred by Setara as it refers to ‘asking for favours’. She largely avoids the term ‘demand’ as it might sound too aggressive and reflect a strong sense of entitlement. I consider it interesting that the refugees reiterated the government’s position that Indonesia is not responsible for the condition of refugees in the country because of its nonparty status to the 1951 Refugee Convention. This approach can certainly be seen as a strategic gesture not to offend the Indonesian government.

Refugees are hesitant to ‘awaken a sleeping giant’, which is to be expected, given that they are aware of their ‘powerless’ position in Indonesia. In every single step they take, refugees must calculate potentially adverse reactions from the government or the local people. Abdul Kareem, who has been living in Indonesia for more than ten years, said that demanding rights from the Indonesian government would be ineffective given that the government could punish refugees for not abiding by Indonesian law.⁵ Abdul had encountered some cases where his fellow refugees had confronted immigration officers to demand better conditions and facilities. Abdul’s friends were immediately warned that they would spend their time in jail or that their actions would eradicate their chances of resettlement. The precarious position of refugees in Indonesia is a huge factor that discourages refugees from publicly negotiating their rights. Abdul, who has two daughters and has experienced a daily struggle to provide for his family, considers the UNHCR to have more bargaining power than refugees in negotiating with the government. He said ‘it is better to demand to humanitarian organizations and hope that they can push the government in an official way to give us rights’ (interview with Abdul Kareem, 2021).

This ‘indirect negotiation’ approach was also preferred by Aadila, who came to Indonesia with her parents and brother. As a refugee advocate for

the last eight years, she has been in many meetings with Indonesian officials and humanitarian officers to negotiate more flexibility and access to rights for refugees. Having observed the official statements as well as experienced bureaucratic complications in humanitarian organizations, she was rather pessimistic about the possibility of rights for refugees in Indonesia being granted in the next five to ten years, even with 'hardcore advocacy'.⁶ She observed that Indonesian officials were never happy when refugees asked about their rights; the officials' view is that the only necessities for refugees are food and accommodation and anything else is a mere 'secondary level of human rights' (interview with Aadila, 2021). Aadila also explained that advocacy must often start from zero every time that the personnel in strategic positions, such as the UNHCR's country manager, changes over the years. Her exhaustion led to a perception that it would not be very effective or a long-term solution to advocate to the Indonesian government for refugee rights.

In addition, Aadila argued that Indonesia should not be the only party held responsible for refugees' wellbeing. She believed that more scrutiny must be directed to the potential resettlement countries, which are responsible for the immobility of refugees in Indonesia:

It is a really different, complicated political thing. It is not just 'Oh, refugees are here so the state should take care of them'. It is more complicated than that. Yes, Indonesia has the responsibility to take care of refugees in the country, since refugees are here, since they have signed a few conventions but not the main 1951 [Refugee] Convention. But when it comes to the long-term protection of refugees, I think not only Indonesia but neighbouring countries who are pushing the border out should be more responsible, like Australia for example. (Interview with Aadila, 2021)

Aadila argued that demanding full rights and protections from Indonesia would be neither a logical nor a fair approach because it is the resettlement countries that have changed their policies, closed their borders and no longer take refugees. Australia, for instance, has now closed its border to refugees who arrived in Indonesia after 2014 and the United States has also reduced its resettlement quotas from Indonesia.

With this perspective, many refugees direct their pleas towards speeding up their resettlement process to a third country rather than demanding rights from the Indonesian government. This includes the RCI's open letter, which was mentioned at the beginning of this chapter. This is consistent with a survey by the Sandya Institute, which noted that while 84.5% of refugees in Indonesia expressed their willingness to pursue higher education⁷ in Indonesia and 66.9% of refugees voiced a desire for work opportunities in Indonesia, almost all participants would choose resettlement over the other opportunities when given the option (Locastro, Alfath and Hu 2019: 27).


Fatima highlights that one of the reasons refugees make demands of the UNHCR instead of the Indonesian government is because the UNHCR oversees the resettlement programme. Fatima explained that for many refugees, Indonesia is not the first transit country. Hundreds of refugees have spent most of their time hoping and fighting for equal rights in previous transit countries and failed. Thus, they prefer to be resettled in a country where they will be integrated on arrival and put on an immediate pathway to citizenship:

Me and many young people here are Hazara, but we were born and grew up in Iran. In Iran, Afghan refugees cannot get citizenship. We were able to go to school and go to work but limited work. We can travel but we only can do limited work. You can go to university, but you cannot work as doctor ... Afghan refugees in Iran for 40 years, we do not have sense of belonging to the country because we are not equal with local people in Iran. I think similar thing applied here. Although we got a little bit of rights such as rights to education ... still we are not equal here. So that is why people prefer for resettlement. (Interview with Fatima, 2021)

Fatima's statement shows that the core of refugees' needs is to be equal: to be perceived and treated equally with citizens and to have citizenship and the 'right to have rights' (Arendt 1973). Fatima's answer also underlines that for many refugees, the path to obtaining citizenship is more certain through resettlement than through advocacy in the transit country.


Resettlement as the Priority for Vulnerable Groups

The specific focus on resettlement in the refugee demonstrations in Indonesia needs to be understood in context. In 2019, Filippo Grandi, the UN High Commissioner for Refugees, stated that 'only about half of one percent of the world's 26 million refugees – including victims of torture, women and girls at risk and other individuals with acute vulnerabilities – are resettled to any country' (UNHCR 2019). In Indonesia, refugees are officially informed by the UNHCR that 'resettlement places are so limited that most refugees in Indonesia will not be able to benefit from resettlement' (see Figure 3.1). This was part of an information campaign that started in 2017 (Topsfield 2017) and has been echoed by other researchers who state that Indonesia is no longer a temporary transit country (Mixed Migration Centre 2021: 3). The wait for resettlement from Indonesia has increased from three years to more than ten years in some cases (Cochrane 2018; Yasmin 2019) and the COVID-19 pandemic has had a worsening effect on global resettlement (UNHCR 2019).



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COMPREHENSIVE SOLUTIONS FOR PERSONS REGISTERED WITH UNHCR IN INDONESIA








European Union
Humanitarian Aid

New Documentation










As part of a project funded by **European Union Humanitarian Aid**, UNHCR is **engaging additional staff** to carry out registration, issue documentation, and conduct refugee status determination.

A **new ID card** will soon be issued to persons registered with UNHCR in Indonesia – the **same card will be issued to both refugees and asylum-seekers**. Your current card or certificate will remain valid until you receive a new card.

Resettlement Places are Very Limited

-  Resettlement is **not an automatic right available to all refugees**.
-  There are now more than **22 million** refugees globally, and countries receive **less than 1%** through resettlement each year.
-  Resettlement places are so limited that **most refugees in Indonesia will not be able to benefit from resettlement**.
-  The number of resettlement places allocated to Indonesia is **decided by resettlement countries** – not by UNHCR.
-  With limited places for resettlement, **priority must be given to the most vulnerable** among the refugee population.

Prepare for Your Future

-  With such **limited places for resettlement** from Indonesia, focus energies on **activities that will enrich your life**.
-  Use your **special talents and skills** by volunteering to **support other refugees and your host community**.
-  Engage in **sports and other positive recreational activities**.
-  Learn **Bahasa Indonesia** to engage with the Indonesian people who have welcomed you into their community.
-  Participate in **local Indonesian cultural events**.
-  Take advantage of **educational opportunities** for yourself and your children.
-  Enroll in **vocational training** programs and **online university** courses.
-  Expand your skills and experience through **internships and apprenticeships**.
-  Always **respect the laws and customs of Indonesia**, and remember that you are a **guest in this country**.

Other Solutions

As **resettlement places are extremely limited** in Indonesia other options may be available, including **returning to your country** if you are able to do so safely.

Contact UNHCR for more information about the opportunities available to you and your family in Indonesia.

Find more information at www.unhcr.org/id

Figure 3.1 'Comprehensive Solutions for Persons Registered with UNHCR Indonesia' poster. Source: UNHCR 2017

In 2017, the UNHCR Indonesia announced in the poster in Figure 3.1 that ‘with limited places for resettlement, priority must be given to the most vulnerable among the refugee population’. In the 1990s, the term ‘vulnerable groups’ was loosely described by the UNHCR Executive Committee (ExCom) as including ‘refugee women at risk’ and other groups and individuals in ‘urgent or emergency’ (ExCom Conclusion No. 55; ExCom Conclusion No. 67) and ‘compelling’ (ExCom Conclusion No. 68) protection cases (Kneebone and Macklin 2021; 1094). Currently, seven resettlement categories are defined, such as ‘those with specific protection needs who are at threat of refoulement; survivors of torture and/or violence; those with specific medical needs (in particular where life-saving treatment is unavailable in the country of refuge); women and girls at risk, family reunification; children and adolescents at risk; and those for whom there is lack of foreseeable alternative durable solutions’ (UNHCR 2011: s 7.7). According to the *UNHCR Resettlement Handbook*, the UNHCR will first conduct preliminary screenings to determine if resettlement is appropriate for certain candidates and then the UNHCR will ‘classify refugees according to urgency and then [allocate] them to “resettlement submission categories”’ (UNHCR 2011: s 7.7).

The UNHCR identifies those in need of resettlement according to categories related to protection risks and vulnerabilities (Westerby 2020), but many resettlement states apply their own three pillars of contemporary migration regimes (humanitarian, family and economic) and criteria in selecting the refugees (Kneebone and Macklin 2021: 1094). The UNHCR ‘urges resettlement States not to use integration potential and other discriminatory selection criteria (e.g. family size, age, health status, ethnicity and religion)’ when considering refugees for resettlement (UNCHR 2016). However, resettlement countries may conduct selection missions and apply arbitrarily selected resettlement submissions with ‘non-Convention criteria’ (not based on international refugee law), including considering refugees’ integration potential, such as educational level, work experience, age and language skills (Westerby 2020; Böhm, Ramsøy and Suter 2021: 17). Resettlement countries often also apply ‘implicit criteria’, such as values and norms related to gender, sexuality and family in the selection process (Westerby 2020; Böhm, Ramsøy and Suter 2021: 18; Welfens and Bonjour 2021: 216).

The ‘cherry-picking’ practice of resettlement countries has been criticized (McNeill 2016; de Boer and Zieck 2020). The *Resettlement Handbook* recognizes that the states’ discriminatory resettlement criteria ‘can limit the access to resettlement for refugees most at risk and have a negative impact overall on the global resettlement programme’ (UNHCR 2011: 70). In Indonesia, the selection is conducted ‘amongst those who were pre-selected by UNHCR’ (Schneider 2021: 15). Over the last four years, refugees have

witnessed a continuous decline of resettlement numbers in Indonesia (763 people in 2017, 509 people in 2018, 664 people in 2019 and 403 people in 2020 (UNHCR n.d.), compared with 1,273 people in 2016). This has upset the refugee communities in Indonesia. The main message that they took from the UNHCR's poster was that only vulnerable groups would have a chance of resettlement. Despite the long wait and discouraging warnings, many refugees maintain hope that Indonesia will remain only a transit spot (Missbach 2019). Keeping this in mind, all their actions in Indonesia are done in consideration of their chances of being resettled in a third country.

Any discussion of potential of refugees' rights protection in Southeast Asia must include the refugees' own conceptions of the kinds of rights that need to be granted by the government. For refugees in Indonesia, all actions, such as demanding rights in the transit country, are taken into consideration when contemplating the whole dilemma and precarity of their slim chance of resettlement. This means that if refugee rights improve in Indonesia, this will not necessarily be appreciated by refugees if they assume that it will imperil their eligibility for resettlement in a third country. During my previous fieldwork, I heard concerns raised by some refugees that the more rights they acquire in Indonesia, the less they can demonstrate their vulnerability, thus reducing their chances of resettlement. If being granted more rights means staying back in Indonesia, then pleading for more rights seems counterstrategic to their long-term goals.

Ready to Settle for Less: Preference for 'Partial Rights' Protection in Indonesia

Although refugees do not generally openly demand more rights from the Indonesian government and are generally more concerned about their resettlement process, it would be misleading to conclude that they do not need any rights while living in Indonesia. Above all, it must be understood that refugees are in a very vulnerable position, given that despite their dire need for basic rights, they are afraid that such protections will reduce their chances of resettlement. For the few refugees who are interested in local integration in Indonesia, the granting of full rights from the government would be desirable. However, for most refugees, who still hope to be resettled, there are some concerns that having too many rights in Indonesia would jeopardize their chances of resettlement.

I gained some insight from the refugee activists regarding how they balance this delicate issue. There were variations in their perspectives regarding which rights should be advocated for and prioritized, such as the right to health, the right to get birth and marriage certificates, more freedom of movement inside the country and the right to legally drive and own a

vehicle. In the following section, I will elaborate on the refugees' points of view on the preference for more flexibility regarding certain rights, such as the right to education, rather than other rights, such as the right to work.

Right to Education: Highly Feasible and Not a Resettlement Stopper

From the perspective of the refugee activists, the right to education is the least controversial right to demand from the Indonesian government. Indonesia has ratified the 1989 Convention on the Rights of the Child, which mandates that states have an obligation to protect the rights of every child in the country in accessing education (Article 28). On 10 July 2019, the Ministry of Education and Culture issued Circular Letter No. 75253/A/A4/HK/2019, which regulates refugee children's enrolment in local schools, on the condition that it does not burden the local government's budget. According to this Circular Letter, schools must prioritize local children; refugee children must have a UNHCR card, a recommendation from a detention centre and a financial guarantee from a refugee organization.

As of September 2021, 778 out of 3,595 refugee children have been enrolled in accredited national schools (UNHCR 2021). Although there are many issues to be considered, such as language barriers, racism and social stigma from local peers, in general, the refugee community has welcomed the idea of protection for their children in accessing education. Furthermore, beyond those enrolled in public schools, 1,000 refugee children have been accessing informal education through refugee learning centres organized by the UNHCR, the IOM and refugees themselves (UNHCR 2021). Central and local governments are aware of these initiatives, and it has been reported by local and refugee activists that the authorities tolerate these self-initiated educational activities. Abdul and Fatima expressed their gratitude about the fact that, to a certain degree, Indonesia has de facto provided 'informal protection' for refugees' right to access education by not banning the schools or intervening in any of their educational activities.

Even though the implementation of the Circular Letter depends on the willingness of the schools and the local government (Adhi, Agung and Gitareja 2020: 59; Mixed Migration Centre 2021: 6), refugees welcomed such positive steps. The refugee activists were optimistic that with more focused and directed advocacy in the area of refugee children's access to education, supported by Indonesian activists as well as international NGOs, more refugee children, and even young adults, could be admitted to elementary school and even high school. They considered it highly possible that in the future, the government could grant further legal provisions that would secure rights to education for refugee children and other young adults, and perhaps even proper school reports and graduation certificates.

However, advocacy for the right to education in Indonesia is not without controversy within refugee communities. According to Fatima, who has served for many years in a refugee-led learning centre, many parents are not happy with the idea of sending their children to an Indonesian school. Besides the language and cultural differences that their children would have to overcome, they also worry that studying in an Indonesian school involves following the path towards local integration, which they thought could reduce their chance of resettlement:

Last year a group of UNHCR staff came to talk. They asked if maybe we can encourage more refugees to get involved in Indonesian schools. But when we discussed this with parents, they were not happy. They were afraid that enrolling children in local school means that they must stay for an even longer time. Even they thought ... that this learning centre makes the process slower. This is a very serious idea. Some of the people are blaming the refugee centre. In one of the parent meetings, one person stood up and he said, '[i]t is because of you we are here. If we did not have the learning centre, the UNHCR or other host countries will see that we do not have education so they will do something for us'. Yes, this idea is among the refugees. (Interview with Fatima, 2021)

My interviewee Fatima responded to the complaint by explaining that all children are vulnerable and that they all have a right to education. Even if there were no refugee schools, she believed that the UNHCR and other humanitarian organizations would try their best to provide education to children; for example, by enrolling children in local schools. Fatima also explained that the small number of refugees who were organizing the learning centre would not change the policies in resettlement countries.

Abdul agreed with Fatima. Although he acknowledged that people in his community were initially afraid of sending their children to Indonesian schools, more people were now willing to take the opportunity. Their willingness had increased because they had witnessed other refugee families being resettled in Canada or the United States, despite the fact that they had sent their children to a local school (interview with Abdul Kareem, 2021). Given that refugees often act based on rumours and hearsay circulating in the community, it is important to understand that they will pay attention to the resettlement patterns and will decide among themselves if certain conditions or activities will hasten or slow down the waiting period for resettlement.

According to Aadila, who assists refugees in finding information about private sponsorship for resettlement to Canada, the right to education will not put a refugee's resettlement chances at risk:

If advocacy will happen, please it will be directed for education. They will help the refugee community so much, and we will not lose a generation. And, in fact, it will strengthen [the chances of] resettlement as well. This stigma that the

more sick, more vulnerable, more broken you are, you have more chance for resettlement ... that is not true. We work at advocacy for resettlement every single day. Resettlement countries look at the vulnerability that you do not have rights. But [also] what is your skill set? [One of the questions is]: 'Write a whole paragraph of your skills', 'What have you done with your time here?' (Interview with Aadila, 2021)

Aadila said that looking at the criteria from resettlement countries, they appreciate refugees who make the best of their transit time by studying, serving the community or developing their capacities. She perceives that if a young refugee can complete high school or university, with or without certification, they will have 'a good basis for resettlement' (interview with Aadila, 2021). Moreover, she believes that resettlement countries appreciate 'high achievers' (interview with Aadila, 2021) who will not depend on the welfare system for the rest of their lives. She argues that advocacy for refugees' right to education is thus a win-win solution for Indonesia as well, because with more educated and highly skilled refugees who can be resettled to a third country, the less of a 'burden' Indonesia will have to carry.

When it comes to the responses of Indonesian locals about whether refugee children should go to school, Aadila says that there was hardly any refusal because 'no one will argue that children should not get education'. Thus, she believed that advocating further for refugees' right to education would not necessarily trigger conflicts with locals. Advocacy for education for all refugee children surely needs time to come to a solid realization, but it would be beneficial and safe for refugee children and other young adults, as they would not have to waste their time while in transit and they would be able to learn and gain knowledge.

The Right to Work: Essential But Might Potentially Impede Resettlement?

According to the 2016 Regulation, refugees are not allowed to work or engage in any income-generating activities. However, it is widely known that hundreds of urban refugees have been engaging in income-generating activities, although most activities are small businesses that cater to the needs of the refugee community itself, such as dress tailoring, bread making, hairdressing, translating and teaching English (Sampson, Gifford and Taylor 2016: 1143; Harvey 2019: 13–15; Masardi 2021: 166–74). The local governments and immigration officers in Bogor and Jakarta can be seen as engaging in the 'informal protection' of refugees' rights to engage in livelihood opportunities (Abraham 2020: 180, 183), as they are generally informed about such activities, yet have been quietly permissive as long as the scale of the refugees' businesses is still categorized as a home

industry. It is also reflective of the culture of informal income-generating activities, which is widely practised by Indonesian locals as well.

Generally, the refugee population welcomes the idea that the state will grant them permission to engage in some income-generating activities in Indonesia, although many are still hesitant to call it a 'right to work'. Indonesia has ratified the 1966 International Covenant on Economic Social and Cultural Rights, which obliges the state to 'recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right'. Nevertheless, the refugee community is usually more comfortable discussing 'livelihood opportunities', as the term is broadly used by the UNHCR and other local activists. Moreover, they also understand that government officials are not happy with refugees demanding such work rights. The term 'livelihood opportunities' is preferred by officials, as has been demonstrated on various occasions when they acknowledged that everyone needs some income to cover their basic needs. Under a programme of 'community empowerment and self-reliance', the UNHCR has also been advocating for livelihood opportunities and collaborating with partners to create community empowerment and self-reliance programmes, such as vocational training and entrepreneurship schemes (UNHCR 2021).

In an online public discussion with SUAKA on 13 November 2020, Masykur Achmad, an expert from the National Task Force for Handling Refugees, said that they have been exploring the possibility of holding work training for refugees, under empowerment or volunteering schemes, to enhance refugees' skills and capacities to improve their chances of resettlement (Jakarta Legal Aid 2020). Although the livelihood programmes can only accommodate very few refugees, it does show that the absence of a national legal framework for refugee rights in Indonesia does not necessarily preclude all labour and economic opportunities for refugees.

Abdul completely agreed that the right to work must be advocated for in Indonesia, especially for those who are self-settled and do not receive any financial support. According to Abdul, refugees face tremendous levels of stress over not being able to provide for themselves and their families. With the IOM's change of policy, which determines that they will no longer assist refugees who registered after March 2018, almost no options for humanitarian assistance are available to autonomous refugees. Abdul experienced such anxiety firsthand:

Think about this, some people kill themselves ... If they can work, at least they have something in their hands. I know it is very challenging, because even from local people, they have complained about refugees working. Also for Indonesians, many do not have jobs. But we should also fight for our wellbeing here. ... This is normal rights. Like in Turkey or Egypt, refugees can work, even in Pakistan. This is [sic] normal rights. In Indonesia we do not have it. It

is [supposed to be] our rights in Indonesia ... Work right should be for everybody. Even for people who are under IOM, they can work online if they are allowed to. (Interview with Abdul Kareem, 2021)

According to Abdul, if refugees are granted the right to work in Indonesia, this will not ruin their chances of resettlement because it is a basic right to which every human being is entitled. Abdul compared the situation to other transit countries where the right to work is accepted⁸ and emphasized that the right to work is a 'normal right'. I interpreted this as an advocative gesture, as he challenges the common practice of resettlement countries hesitating to receive refugees who have enjoyed rights to work in transit countries.

Setara supported the idea that refugees in Indonesia should be granted the right to work. The right to work is important because currently, with all the discourse surrounding unregulated livelihood opportunities in Indonesia, refugees are at great risk of being detained:

I witnessed refugees making shops and immigration officers closed it down and sent them to jail. Even if I do some internship in this organization, I put myself at risk in dealing with immigration. If they did the investigation, they would find that I do not receive salary. Maybe they are OK with it. But I am never sure if the activity I am doing is legal. (Interview with Setara, 2021)

The absence of the right to work constantly puts refugees at great risk of facing arbitrary detention, and even extortion, from police or immigration officers because the enforcement of refugees working informally in Indonesia is very 'unpredictable and inconsistent' (Harvey 2019: 17). Despite the prohibition on working, refugees continue to engage in a variety of income-generating activities while in transit; thus, the issuance of regulations regarding refugees and work would contribute to the state's commitment to protecting refugees. Setara's statement highlights that granting refugees the right to work not only facilitates refugees to secure their basic needs, but also protects them from other violations, such as arbitrary detention and extortion enacted by immigration officers.

Aadila held a different opinion from her fellow refugee activists. To her, demanding that the Indonesian government grant rights to refugees is highly problematic. She acknowledged that the right to work is fundamental and that some livelihood opportunities would be good for the community to survive. However, she argued that even if Indonesia granted rights to refugees, this would not solve the problem. First, she was concerned that there would be a backlash from the local community over the fear of refugees taking their jobs. Her concern is probably reflective of the fact that Indonesia is very protective of its domestic workforce. In 2020, there were only 93,761 foreign labourers in Indonesia, which has a total population of 275.5 million (Annur 2021). One-third of the foreign workers are from China and the

public perception of them is often negative (Pink 2021). Aadila was afraid that the same negative perceptions would be conferred on refugees.

Even if Indonesia were to provide more flexibility in terms of livelihood opportunities, Aadila argued that limitations should be put in place to mitigate the potential repercussions:

I do not know what livelihood will be possible in Indonesia, but I know that work rights will not be possible. Maybe either to give permission to refugees to open a small shop and to sell to the community for a specific neighbourhood, or for a specific community, or it can be in a few sectors, like you can only serve food, or you can only do this. Having limitations around it maybe will be more possible. This is just the idea from the refugee community that has been going on: 'I wish they will allow us to work only in a beauty salon, for example, or food sectors, or fashion design, or computers'. You know, just a few sectors that refugees have skills in. This is livelihood, right ... Not complete work rights where you can work in any company you want, because it will take Indonesian jobs. (Interview with Aadila, 2021)

Aadila's view was very much in contrast with a report released by the Sandya Institute, which indicated that, given the small numbers of refugees, even if the government were to grant working rights to all refugees in Indonesia, each area of the job market would only expect an additional 600 potential 'competitors' (Locastro, Alfath and Hu 2019: 20). Thus, the risk of refugees hampering local people's access to the labour market is, they argued, 'extremely low' (Prabandari, Missbach and Adiputera 2017: 3).

Despite contrary indications, Aadila believed that allowing refugees limited livelihood opportunities would be better than granting full working rights, as locals' perceptions of refugees working could still potentially be harmful. Furthermore, Aadila predicted that even if refugees had full working rights, they would not be able to find formal jobs because 'they would not have the required documentation' to be properly admitted as foreign workers (interview with Aadila, 2021). According to the Indonesian government's Regulation No. 34/2021 on the Employment of Foreign Workers, even foreigners who have working visas must undergo a difficult process and their potential employers must submit various types of documents to the minister or appointed bureaucrats to get permission to employ them. Due to a lack of certificates and valid IDs in the refugee community, Aadila observed that refugees would struggle to compete in the job market because the government cannot control the job requirements in all companies and whether the requirements are adjusted to the refugees' conditions. The challenges of working with locals also include cultural differences. Aadila claimed that the only functional refugee livelihoods in Indonesia are those that are conducted in cooperation with the refugee community itself because the refugees speak the same language and have mutual trust and cultural

sensitivity. She was pessimistic about the prospect of refugees working with locals because they have different working cultures, which could potentially lead to misunderstandings and conflict.

Most significantly, Aadila perceived that being granted full working rights would potentially harm refugees' chances of resettlement. She observed that when refugees apply for resettlement to any country, there is a list of questions including 'do you have access to education?' and 'do you have the right to work?', and she believed if refugees have those rights in the transit country, there is no strong reason for the resettlement country to take them. Her understanding may not actually accord with how states select refugees for resettlement. Nevertheless, Aadila's perception that the 'right to work is the key' (interview with Aadila, 2021) is important to understand here.

One of the states' resettlement criteria is the economic potential of successful integration of refugees, which is ascertained by looking at their human capital factors (i.e. education, skills and language ability) (Kneebone and Macklin 2021: 1096–97). Here, education is clearly an important human capital factor for resettlement. However, Aadila argues that it is a different situation when obtaining the right to work in the transit country. Aadila explains that even if a person did obtain a university certificate in Indonesia, but could not apply their knowledge due to the limited right to work in the country, resettlement countries could still find reasonable grounds to accept them. Yet, if Indonesia granted the full right to work, she argued that it would seriously demotivate resettlement countries from taking any refugees from Indonesia because the resettlement countries will think that the refugees are 'fine'; it suggests that pathways towards local integration are a 'foreseeable alternative durable solution' (UNHCR 2011: s 7.7) to resettlement.

Instead of advocating for work rights, Aadila hoped that the Indonesian government would encourage refugees to establish more refugee-led initiatives in Indonesia by supporting their access to international donors and activists. She also hoped that the government would legalize their activities – for example, by legally registering the existing refugee-led initiatives in Indonesia and giving refugees access to the banking system so that they can be more independent in raising funds from the international community. She emphasized that this mechanism is highly feasible and that the state can monitor the activities easily as there would be regular reporting and even tax payments to the government. Aadila argued that refugees' chance of resettlement will increase as they can show that they engage in meaningful activities, despite the lack of access to basic rights in Indonesia. She added that this would be in Indonesia's interests as it would contribute to solving its domestic problems, as the number of refugees staying in the country would be reduced if there was more resettlement.

On the surface, Aadila's argument would seem to contradict the aspirations of many refugees and refugee advocates who are fighting for more

rights for refugees in Indonesia. Nevertheless, although not expressed publicly, a significant number of the refugees that I met in the field shared these concerns about full work rights potentially reducing their chances of resettlement. Setara also said that it is 'not that we do not want rights, but we want to make sure that by having these rights we will not lose our chance of resettlement' (interview with Setara, 2021). Although it might sound opportunistic, having a calculating perspective is an important strategy. Refugee activists generally aim to support refugees' wellbeing while in transit, but in doing so ensure that in the long run, these efforts do not hamper their ability to move to a third country. This is a dilemma facing a refugee community that most of the time does not have any means to survive, yet they are hesitant to accept – let alone fight for – more protection because they do not know which is the more promising approach.

Settle for Less to Maintain the 'Collective Vulnerabilities'

The refugee activists' perspective on partial rights fulfilment illustrates their 'multidirectional movements in transit' (Masardi 2021) where, on the one hand, refugees want to make the best of their transit situation, while, on the other hand, they wish to safeguard their future mobility. Their point of view regarding which rights should and should not be advocated for in Indonesia is measured by their interpretation of the UNHCR and resettlement states' criteria and consideration of whether any changes in the transit country would interfere with their eligibility for resettlement. With the UNHCR Indonesia emphasizing that vulnerable groups will be prioritized for resettlement, refugee communities are facing systematic pressure to prove, both to the UNHCR and resettlement states, that they are vulnerable. They do this either by accentuating their individual vulnerabilities (UNHCR 2011: s 7.7), such as those with specific medical needs (including women and girls at risk), the need for family reunification, children and adolescents at risk and disabilities or trauma, or by emphasizing their 'collective vulnerabilities' – i.e. being in transit without any meaningful protection of basic rights and lacking foreseeable, alternative, durable solutions (UNHCR 2011: s 7.7). When the refugees fail to substantiate that they have 'individual vulnerabilities', they will need to demonstrate 'collective vulnerability'. This 'collective vulnerability' is often used as the last resort for many refugees in Indonesia in case their claims of individual vulnerabilities are not acknowledged by the UNHCR. To maintain their collective vulnerability, they often deliberately choose not to demand anything that might lead to a durable solution other than resettlement, such as local integration. When considering any improvements to their legal statuses and the protection of refugee rights in Indonesia, refugees prefer

to settle for less, as they perceive that it is necessary to safeguard their chance of resettlement.

In this chapter, I have illustrated that refugee activists' hesitations to demand the improvement of rights from the Indonesian government is due to their feeling of insecurity and precarity, their lack of understanding of the resettlement process and, mostly, the perception that too many rights will hold refugees longer in the transit country. This chapter has demonstrated various points of view from four refugee activists. Based on their observations, experiences and speculations, the refugee activists have suggested that they would appreciate improvement on the right to education. On the other hand, there is still hesitation to advocate for the full right to work, and one activist suggested that putting certain limitations on refugees' livelihood opportunities is necessary.

Against the backdrop of the discourse on the scope of the 'international refugee protection regime', which suggests that refugee rights must be granted by the state in which they reside, I argue that in some cases, the state's informal protection is preferred over its active intervention. The refugee activists' perspectives have revealed the diversity of views in the discussion about state responsibility. The usual discussion suggests that the ideal step by the transit state is to actively involve refugees in the community and provide full rights protection. This chapter has illustrated that there are exceptional cases where refugees prefer partial state intervention or responsibility, as they would like to maintain the conditions that guarantee that Indonesia is seen by the international community as a transit country.

The refugees perceive that their multidirectional movements in the transit country will be smoother if they keep the government at bay. Many refugees preferred the Indonesian government's 'outsourcing mechanism' on refugee management to the UNHCR because they can predict the international refugee management system and resettlement process that will be applied to them, rather than an unpredictable local mechanism or regulation (Masardi 2021: Chapter 2) This way of thinking is not necessarily reflective of any perceptions by refugees that the UNHCR is more powerful than the Indonesian government. On the contrary, refugees acknowledge the state's enormous power and they are anxious that more restrictions will be put in place if the government is too involved in mechanisms pertaining to refugees in the area.

Reflecting on the issue of the state's responsibility, it is surprising that Indonesia's reluctance to provide basic rights to refugees and its hesitation to offer chances for local integration is actually in accordance with the preference of a number of refugees transiting in Indonesia. However, it is important to note that this perception could be the result of refugees' distrust and/or misperceptions about the global resettlement regime and the international (including Indonesian) refugee management regime. This chapter

does not aim to represent the perspectives of all refugee communities in Indonesia; rather, it attempts to illustrate a strategic move common among refugees who prioritize long-term solutions over short-term enhancements to protections in Indonesia. Given that the refugees hope to obtain citizenship and have 'a right to have rights' following it, they direct their strategy to the most promising scenario: to be resettled in the third country, where all paths to citizenship are already in place.

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Notes

1. There has been some adjustment from the UNHCR Indonesia in response to PR 125. Because PR 125 does not acknowledge the distinction in legal status between 'asylum seekers' and 'refugees' in Indonesia, the UNHCR utilizes this opportunity by granting the same identity card (the UNHCR card) to both refugees and asylum seekers to ensure the protection and safety of the population in Indonesia (see UNHCR 2017). The 'refugee card' was previously stronger than the 'asylum seeker card' to protect the population from being detained or mistreated by immigration officers. With the current arrangement, both asylum seekers and refugees are protected, given that they hold the same card. Since 2018, the UNHCR has conducted a more limited number of RSD interviews. The UNHCR decided to no longer put asylum seekers through the stressful process of RSD only to obtain a 'refugee card' (online interview with Aadila, 3 May 2021). However, this decision sometimes is interpreted by several asylum seekers as a negative signal that suggests that the UNHCR will delay its resettlement opportunities as their refugee status has yet to be confirmed.
2. All names of informants have been changed to protect their privacy and safety.
3. Online interview with Fatima (22 April 2021).
4. Online interview with Setara (25 April 2021).
5. Online interview Abdul Kareem (17 April 2021).
6. Online interview with Aadila (3 May 2021).

7. On alternative solutions through higher education, see the Introduction to this volume.
8. In Turkey, asylum seekers and refugees have the right to work six months after they are registered for or acquired international protection, where they can apply for various types of work permits such as wage employment and self-employment (see UNHCR 2022: 8). In Egypt, asylum seekers and refugees have the right to wage-earning employment and self-employment, and they can apply for a work permit at the Ministry of Manpower: see 'Information for Asylum-Seekers and Refugees in Egypt' (UNHCR 2013). In Pakistan, refugees do not have a right to work, but there are many programmes and advocacy efforts that support self-reliance, vocational training and diverse livelihood opportunities for Afghan refugees (see UNHCR 2020).

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