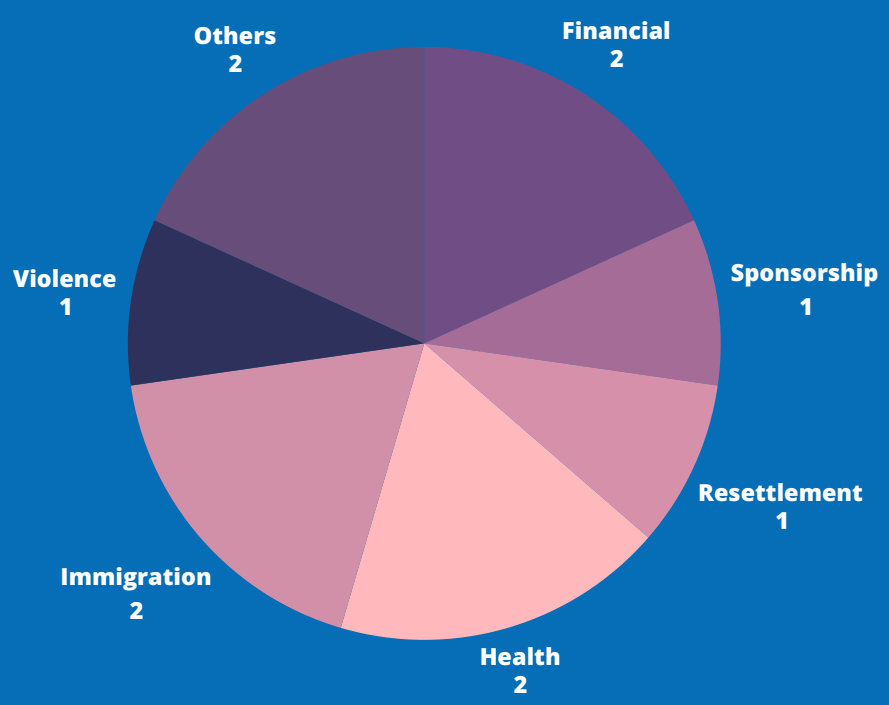
Monthly Legal Brief | August 2024

TOTAL OF REPORTS

Across August 2024, SUAKA has received a total of 10 cases which consists of 113 Person of Concern (PoC) regarding their legal matters. This numbers of PoC increased massively since SUAKA assisted the refugee community in Kalideres consists of 100 refugees on one case this month. In total, SUAKA has received 70 reports from refugees throughout the legal aid recording period in 2024 so far.



CASE CATEGORIES

Most of the cases received by SUAKA are related to daily basis needs request which consists of financial and health. Most of the cases received by SUAKA are in line with the recent suspension of UNHCR's financial assistance which resulted in difficulties of refugees in accessing proper health facilities and difficulties financially. SUAKA on this regards, are unable to assist since SUAKA is not a financial or medical aid organization.

COUNTRY OF ORIGIN OF THE PoC

Across July 2024, Afghanistan refugees is the most PoC identified on any legal matters assisted by SUAKA with 104 individuals identified. Most of them are identified through the Kalideres case recorded by SUAKA. To compliment the data, there are refugees from Myanmar, Pakistan, and others identified by SUAKA on each legal case reported.

Country of Origin	Number
Afghanistan	107
Pakistan	3
Somalia & Irak	2
Madagascar & Myanmar	1

GENDER DIFFERENCES

There are 94 refugees communicated their legal matters to SUAKA identified as a male refugees. The rest 19 refugees reported their cases to SUAKA identified as female refugees.

CASE-BASED REVIEW

Updates on Immigration Detention Law on Refugees in Indonesia

A. Overview of the Issue

Immigration law is commonly used by the legal systems of every Country to regulates regarding interactions and mobilities of foreigners identified on one State's territory. Indonesia, on this context also has Immigration legal system with primary legal instruments of the Law No. 6 of 2011 Regarding Immigration **("Immigration Law")**. Through this law, it governs regarding technical procedures for foreigners to enter, staying, and departing Indonesia through varied purposes and regulates sanction mechanism for foreigners that are violating the law. Immigration Law, is not regulates regarding refugee management and protection in Indonesia

While it is not regulating regarding refugee management and protection, Immigration positioned refugees to be included as the legal subject under the law. This happened since the Indonesian Government still lacks the comprehensive policies on refugee protection and regulation specifically. Regarding this, SUAKA argues that ideally there should be different regulation regarding this since unlike regular foreigners, refugees has different background, motives of mobilization, vulnerabilities, dynamics, and different regulation under the international law. Although, we already have the Presidential Regulation No. 125 of 2016 which comprises with the described technical process on managing refugees in Indonesia, regulations with stronger position in the highest level with human rights perspective is still needed. Therefore, in terms of the implementation, refugees is also subject the Immigration Law and also able to be detained in accordance to the law.

Source: Canva

B. Updates on the Legal Basis

Immigration detention under the Immigration Law are regulates under a couple of articles. Detention is included as one of the series of acts that can be conducted by the Immigration authority in Indonesia to sanction those that are violating the law, cause any security threats, and those that are causing a disruption to public order. This series of act is named as "Immigration Administrative Actions/*Tindak Administratif Keimigrasian*" stated in the Article 75 Para. (1). Other than detention, Immigration Administrative Actions included with inclusion into prevention list, limitation on stay permit, prohibition to be in one or more particular regions, obligation to be in one particular location (detention), economical sanction, and deportation. Deportation is prohibited to be conducted to refugees due to *non-refoulement principle*.

it is stated previously that one of the reason of detention as part of Immigration Administrative Actions is due to the activities of such foreigners that are threatening security and public order. Unfortunately, Immigration Law didn't explain further regarding the definition of what does it mean by threatening security and public order. Therefore, there might be some loose interpretation which resulted in arbitrary arrest and detention of refugees in Indonesia.

As of the latest update, On March 2024, Immigration Authority in Indonesia has passed a new Circular Letter No. IMI.5-GR.03.03-039 of 2024 Regarding Imposition of Immigration Administrative Actions of Detention for Refugees. This Circular Letter acts as a legitimate specific legal basis that allows Immigration to detain refugees with the reason of violating the law or conducting activities that are disrupting the security and public order. Judging by the time, this Circular Letter is late to be passed since previously, there has been a lot of detention towards refugees before the specific legal basis for refugees like this applies. Although Circular Letter is not positionally strong in terms of law under the legal hierarchy in Indonesia, this Letter then provides more clearance on the legitimation of detention towards refugees.

Apart from the legitimation of detention for refugees, this Circular Letter also regulates that the detention must be conducted with certain written documents. This documents included with; Minutes of Examination, Minutes of Opinion, Decision of Detention, Detention Order, and Minutes of Detention. Lastly, It is also states that while in detention, Immigration Authority needs to fulfil daily needs of the detainees such as meals and medical assistance if needed.

C. SUAKA's Recommendations on Arrest and Detention Situation

Identify Immigration Officer ID when they come to you

Always have your UNHCR Document everywhere you go

If they arrest you, ask for a written warrant

When you are being detained, ask for detention decision and order of detention document

Communicate directly with UNHCR/legal aid organization

This Case-Based Review was made based on SUAKA's experiences in legal case assistance and used to provide the general information on the matters. Other implementation outside this review are still possible to applies according to the situation and other factors. For further consultation, please send your inquiries to 081212378252/legalaid@suaka.or.id accordingly.