



MEMORANDUM OF UNDERSTANDING

BETWEEN

**THE NATIONAL HUMAN RIGHTS COMMISSION
OF THE REPUBLIC OF INDONESIA**

AND

**THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER
FOR REFUGEES**



Considering the Regulation of the Director General of Immigration Regarding the Handling of Irregular Migrants (Number IMI-1489.UM.08.05 Year 2010), which recognizes the role of UNHCR in the protection of refugees and asylum-seekers in Indonesia;

Recognizing the respective mandates and responsibilities of each Party and the importance of strengthening their partnership and collaboration;

Underscoring the importance of enhancing collaboration between the two Parties to protect the human rights of refugees, asylum-seekers, stateless persons, and people at risk of statelessness, in various areas including alternatives to immigration detention; protection and assistance to children; increasing birth registration rates; and protection of the family;

The National Human Rights Commission of the Republic of Indonesia (Komisi Nasional Hak Asasi Manusia Republik Indonesia, hereinafter referred to as Komnas HAM) and the Office of the United Nations High Commissioner for Refugees (hereinafter referred to as UNHCR) have agreed as follows:

1. Objective

Komnas HAM and UNHCR, taking into account the distinct and complementary nature of their respective mandates and responsibilities, commit to ensuring close cooperation and mutual support within their respective areas of responsibility.

2. The Mandate, Role and Responsibilities of Komnas HAM

Komnas HAM was established through Presidential Decree No. 50 of 1993 and given the mandate for monitoring the human rights situation in Indonesia. Komnas HAM was given the authority to investigate alleged human rights abuses by the Human Rights Act No. 39 of 1999, and under Law No. 40 of 2008 on the Elimination of Racial and Ethnic Discrimination its role was expanded to include additional responsibilities in the prevention of racial and ethnic discrimination. To exercise its mandate, Komnas HAM undertakes a range of responsibilities and functions, including:

- i. Observing the human rights situation in Indonesia and issuing reports outlining its findings and making recommendations for action;

- ii. Conducting investigations into incidents in which human rights violations may be involved, including summoning a petitioner or victims and requesting the presentation of evidence;
- iii. Monitoring places of detention and making recommendations in relation to the conditions of detention, the treatment of detainees, and the level of respect for human rights;
- iv. Advocating with relevant parties to ensure respect for human rights principles.

3. The Mandate, Role and Responsibilities of UNHCR

UNHCR was established pursuant to United Nations General Assembly Resolution 428(V) of 14 December 1950 and established its Representation in Indonesia in June 1979. UNHCR's mandate is humanitarian and non-political in nature, and its responsibilities include:

- i. Providing international protection for refugees, asylum-seekers, and stateless persons and seeking durable solutions for them;
- ii. Participating in humanitarian endeavors of the United Nations for which the Office has particular expertise and experience;
- iii. Providing diplomatic and consular protection for refugees, asylum-seekers, and stateless persons;
- iv. Interceding directly on behalf of refugees, asylum-seekers, and stateless persons who would otherwise not be legally represented in the international context;
- v. Promoting effective coordination to deal with refugee situations;
- vi. Supervising all instruments in relation to States' compliance with their international obligations towards refugees, asylum-seekers, and stateless persons;
- vii. Coordinating efforts to promote comprehensive solutions for refugees, including through resettlement, local integration, and voluntary repatriation.

4. Partnership and Collaboration

The Parties agree to collaborate on a range of issues aimed at improving the situation of refugees, asylum-seekers, and stateless persons in Indonesia, as outlined below.

A. In line with their respective mandates, the Parties will jointly:

- i. Involve the Government of Indonesia (hereinafter referred to as the Government) to ensure that the human rights of refugees and asylum-seekers in Indonesia are respected, including access to asylum, freedom of movement, *non-refoulement*, education and healthcare;
- ii. Promote understanding of and respect for the human rights of refugees and asylum-seekers in hosting communities, including to improve mutual understanding and peaceful coexistence;
- iii. Organize trainings and other activities to raise awareness of human rights and prevent human rights violations against refugees, asylum-seekers, and those at risk of statelessness;
- iv. In recognition of the human rights accorded to the protection of and assistance for the family unit, involve the Government to promote access to

local integration for refugees who are married to Indonesian citizens and/or who have children with Indonesian citizenship.

- v. Involve the Government of Indonesia to end the detention of refugees and asylum-seekers for immigration-related reasons and to establish alternative arrangements, particularly for children and women;
- vi. Monitor immigration detention facilities where refugees and asylum-seekers are detained to assess compliance with human rights standards and make recommendations to address identified gaps;
- vii. Advocate for the protection, care and accommodation of unaccompanied refugee and asylum-seeking children, particularly those with no other means of support and/or who are homeless;
- viii. Raise awareness on the importance of birth registration to ensure access to human rights and promote actions for the Government to improve the country's birth registration rate, particularly for lower-income families and families in remote areas;
- ix. Identify potentially stateless populations, raise awareness of their human rights, and involve the Government to ensure their rights are protected.

B. In line with its mandate and confidentiality obligations, UNHCR will:

- i. Share with Komnas HAM information relating to alleged human rights violations against refugees, asylum-seekers, and stateless persons, as well as to the general situation regarding their human rights;
- ii. Share with Komnas HAM aggregate information relating to the status of case processing for detainees including any constraints that are faced.

C. In line with its mandate, Komnas HAM will:

- i. Investigate complaints of alleged human rights violations against refugees, asylum-seekers, and stateless persons, share recommendations of such investigations with UNHCR, and bring confirmed reports of such violations to the attention of relevant Government authorities;

5. Implementation

The implementation of this Memorandum of Understanding is governed by the principles of complementarity, mutual support, and coordination of action between Komnas HAM and UNHCR.

The Parties will each nominate a focal point to act as conduit of information sharing and to coordinate joint activities.

The Parties will convene regular meetings to discuss progress on the implementation of the agreed-upon activities.

6. Amendment

This Memorandum of Understanding and any annexed work plan shall constitute the entire understanding between the Parties with respect to the subject matter herein, and may be amended or revised at any time in writing only and upon signature by both Parties.

This Memorandum of Understanding shall take effect on the date of signature by both Parties.

7. Period of the Memorandum of Understanding

This Memorandum of Understanding is valid for three years from the date it is signed by both Parties, and is subject to renewal upon the agreement of both Parties.

8. Termination

This Memorandum of Understanding may be terminated by either Party giving three months written notice to the other Party. The obligations assumed by the Parties under this Memorandum of Understanding shall survive the termination pursuant to this article to the extent necessary to permit orderly conclusion of activities.

9. Dispute Resolution

Any dispute arising from the interpretation or implementation of this Memorandum of Understanding shall be resolved by the Parties through negotiations in the spirit of coordination and cooperation.

10. Privileges and Immunities

Nothing in or relating to this Memorandum of Understanding is to be deemed a waiver, express or implied, of any privileges or immunities enjoyed by either Party.

IN WITNESS WHEREOF the undersigned, being duly appointed representatives of Komnas HAM and UNHCR in Indonesia, have signed this Memorandum of Understanding in Jakarta, Indonesia this 28th day of July 2015.

NATIONAL HUMAN RIGHTS
COMMISSION (KOMNAS HAM) OF
REPUBLIC OF INDONESIA
Chairman,

Nur Kholis, S.H., M.A

UNITED NATIONS HIGH
COMMISSIONER FOR REFUGEES
(UNHCR) INDONESIA
Representative,

Thomas Vargas