Children affected by migration in ASEAN Member States

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COUNTRY BRIEF: INDONESIA

Southeast Asia is a major migration hub comprising countries of origin, destination and transit – with some countries being a mix of all three – for a large number of migrants. Migrants include displaced persons moving both within and between countries for diverse and mixed purposes. In 2020 alone, there were 1.3 million (1,266,009) child migrants in ASEAN and in 2021, around 630,000 (627,390) refugees from ASEAN countries in the world were children. Natural disasters and conflict led to more than 2.5 million (2,522,801) internal displacements of children in 2021. Millions more children remained behind while parents migrated for work, leaving many children at risk.

Data snapshot: Indonesia migration trends

- There were just over 4.6 million registered international emigrants from Indonesia across the world, and 355,500 international migrants (foreign-born or foreign population) in Indonesia as at mid-2020.[1] However, this does not include undocumented international migrants.
- Children make up 27 per cent of all refugees and asylum seekers in Indonesia.[2] There were 3,499 child refugees and asylum seekers registered with UNHCR as of June 2022, including 128 children who were unaccompanied by or separated from parents/caregivers.[3] Since 2020, Rohingya refugees have been fleeing from their home country of Myanmar and from Bangladesh, where many had sought exile. In the last two months of 2022 alone, four boats carrying over 450 Rohingya refugees disembarked in the Indonesian province of Aceh.[4] In early 2023, arrivals continue.
- In 2021, 641 stateless persons were registered in Indonesia.[5]
- In 2020–2021 there were 404 reported cases of child trafficking victims.[6]
- In 2021, 749,400 new internal displacements were linked to disasters, the majority caused by floods and earthquakes. In addition, conflict and violence led to 26,600 new displacements, the majority in Papua province.[7]

1 United Nations Department of Economic and Social Affairs, Population Division, Migration Data Portal, 'Regional Data Overview, Migration Data in South-eastern Asia', last updated on 15 February 2022, <www.migrationdataportal.org/regional-data-overview/south-eastern-asia>.

2 United Nations High Commissioner for Refugees, 'Indonesia Fact Sheet', June 2022, <www.unhcr.org/id/wp-content/uploads/sites/42/2022/08/Indonesia-Fact-Sheet-June-2022-FINAL.pdf>.

3 Ibid.

4 United Nations High Commissioner for Refugees, 'Protection at Sea in Southeast Asia – 2022 in Review', <https://data.unhcr.org/en/documents/details/98170>.

5 United Nations High Commissioner for Refugees, *Global Trends: Forced displacement in 2021*, Full Tables, Table 5.

6 Government administrative data provided to authors.

7 Internal Displacement Monitoring Centre, Indonesia, <www.internal-displacement.org/countries/indonesia>, accessed on 16 December 2022.

Evi and Shifa, 8, return home from school in the UNICEF-supported Masjid Agung IDP camp in Palu.
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Indonesia is a source, destination and transit country for many migrants, refugees and asylum seekers. Millions of migrants from Indonesia reside in countries in Southeast Asia and other countries throughout the world; an unknown proportion of this migration is irregular. Internal migration is also significant in Indonesia, mostly involving rural to urban flows, motivated by the desire to improve living standards and find better economic opportunities. Indonesia is also a transit country for many refugees and asylum seekers who are fleeing persecution and conflict. Many children in Indonesia remain behind when parents and caregivers migrate. COVID-19 and government responses to the pandemic impacted migration flows by triggering movement from destination countries and neighbouring countries back into Indonesia and reducing the ability for parents and caregivers to send remittances home to children and extended family.

This country brief summarizes the key findings of a report on the situation of children affected by migration in ASEAN Member States, which examined the unique drivers of child migration; the ways in which children are affected by migration, including associated protection risks; and the laws, policies and services for children and families affected by migration.

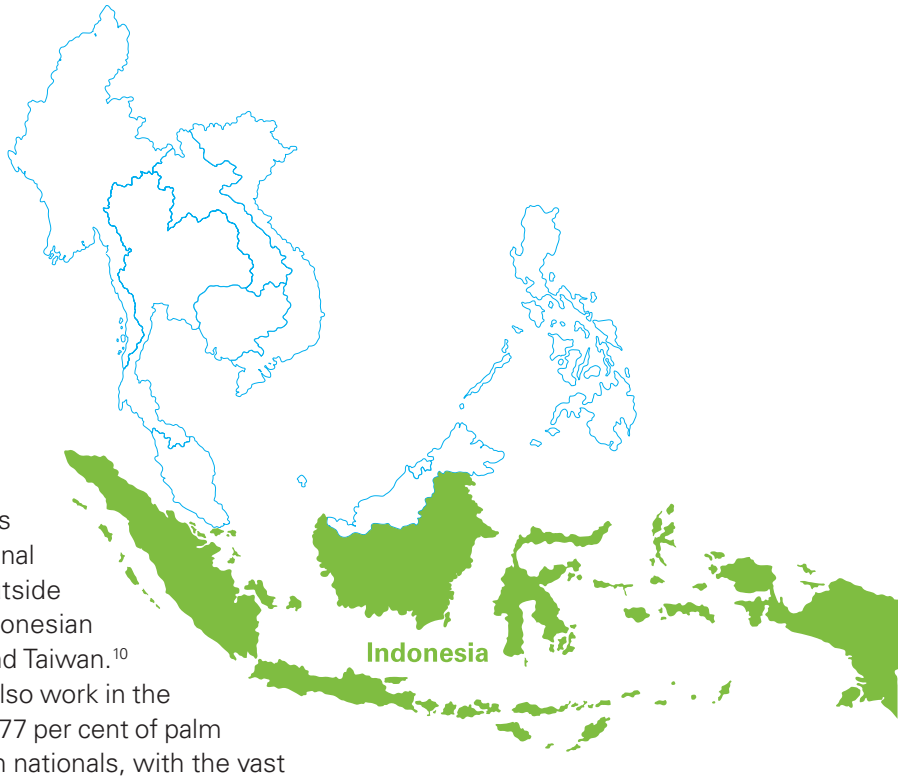
It is important that the unique situation and needs of children affected by migration are understood so that more effective and targeted policy and programmatic responses can be developed. Until recently, much of the migration literature focused on the experiences of, and the impact on, migrant adults. Children and their interests have been largely invisible, with little knowledge generated about the unique drivers or impact of migration and particular migration policies on children.

> **'Children affected by migration'** is a broad umbrella term that encompasses children (those aged under 18 years)[8] who move or have moved within their country of origin or across the border into another State, temporarily or permanently. This includes children who migrate voluntarily or involuntarily (as a result of forced displacement due to natural disasters or conflict); or for economic, social, educational or cultural reasons. It includes children who move individually or to accompany parents who have migrated. It also includes children who remain behind while one or both of their parents migrate ('children remaining behind').[9]

[8] This is in accordance with international definitions of childhood in particular as set out in the United Nations Convention on the Rights of the Child, Article 1. It should be noted that in the domestic laws of some ASEAN States, such as Thailand, children who have attained majority through marriage are not included within the definition of 'child' in the Child Protection Act 2003. In addition, in some domestic laws, such as the Philippine Republic Act 7610, a child over the age of 18 who cannot fully take care of themselves because of a physical or mental disability or condition is included within the definition of a child.

[9] Joint general comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of migration, CRC/C/GC/22 16 November 2017, para. 9. See also UNDESA, which defines an international migrant as anyone who changes their country of usual residence, 'Recommendations on Statistics on International Migration, Revision 1', 1998; and International Organization for Migration, 'IOM Definition of "Migrant"', <www.iom.int/who-is-a-migrant>, accessed 6 April 2021.

1. Profile of children affected by migration in Indonesia



Indonesia has a long tradition as a source country for migration to other countries in Southeast Asia and beyond. While a proportion of this migration occurs within Southeast Asia, much of the international migration from Indonesia is to countries outside the region. The top two destinations for Indonesian migrant workers in 2021 were Hong Kong and Taiwan.[10] A significant number of Indonesian migrants also work in the palm oil industry in Malaysia: As of 2017, about 77 per cent of palm oil plantation workers in Malaysia were foreign nationals, with the vast majority of these from Indonesia.[11] While data are limited, it is estimated that millions of Indonesians have migrated abroad irregularly – that is, outside the destination country's regular process or not in compliance with its laws. Many people choose to migrate irregularly due to the costs and complexity of lengthy, formal migration channels.[12] This has encouraged a market for smuggling, which can place children and families at risk of trafficking.[13]

Internal migrants in Indonesia constitute a significant population. Recent data are limited but in 2010, nearly 9.8 million individuals were estimated to be temporary internal migrants, according to Census data (though this only represents the number of migrants who moved in the five years prior),[14] indicating that internal migration may outnumber international migration from the country. Internal migration tends to be mostly from rural to urban areas, motivated by the desire to improve living standards.

Indonesia has a substantial population of child refugees and asylum seekers, for whom it serves mainly as a transit country. Indonesia is considered in the Southeast Asian region a transit country for refugees and asylum seekers, in recent years receiving over 13,000 refugees from over 42 countries.[15] Just under a third of all refugees registered with UNHCR in Indonesia are children. The vast majority of refugees and asylum-seeking persons in Indonesia, as of mid-2022, were from Afghanistan (7,251); other countries of origin included Somalia (1,354) and Myanmar (902), whose numbers are on the rise.[16] In the last few years, resettlement options for refugees and asylum seekers in safe third countries have been shrinking, and voluntary repatriation to their conflict-ridden countries has often not been feasible. The situation of refugees has been further aggravated by the COVID-19 pandemic and the closure of national borders. As such, refugees and asylum seekers in Indonesia live in a state of "permanent temporariness".[17]

Large-scale displacements in Indonesia occur as a result of natural disasters, where storm surges and other natural hazards displace thousands of people every year across the country.

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[10] Indonesian Workers Protection Agency (BP2MI) referenced in Anaf, A., et al., 'Indonesian Migrant Workers: The migration process and vulnerability to Covid-19', *Journal of Environmental Public Health*, 15 June 2022.

[11] '77% of Plantation Workers are Foreigners', *Borneo Post*, 2017, <www.theborneopost.com/2017/08/06/77-of-plantation-workers-are-foreigners>.

[12] Harkins, Benjamin, Daniel Lindgren and Tarinee Suravoranon, *Risks and Rewards: Outcomes of labour migration in South-East Asia*, International Organization for Migration, International Labour Organization and Rapid Asia, 2017

[13] See United Nations Office on Drugs and Crime, *Smuggling of Migrants in Asia and the Pacific: Current trends and challenges*, Volume II, 2018, pp. 78–87.

[14] United Nations Educational, Scientific and Cultural Organization, et al., 'Overview of Internal Migration in Indonesia', p. 3, <https://bangkok.unesco.org/sites/default/files/assets/article/Social%20and%20Human%20Sciences/publications/Policy-brief-internal-migration-indonesia.pdf>, accessed 12 December 2022.

[15] UNHCR-UNICEF, 'Priority Actions for Inclusion of Refugee Children in Indonesia', Policy brief, 2022.

[16] Ibid.

[17] Ibid.

2. Drivers of (child) migration

Children in Indonesia migrate and are affected by migration for a range of reasons. The figure below explains the drivers of migration in Indonesia, including individual and family drivers, as well as factors that operate at community and structural levels in a child's life.

Structural drivers

- Limited economic opportunities and high unemployment remain core drivers of international and internal migration flows to industrialized and urbanized towns.
- Government policies have encouraged overseas labour migration, particularly by low-skilled workers, contributing to remittances becoming an important part of the country's economic growth.
- Natural hazards such as storms and flooding are a key cause of displacement in Indonesia.

Community drivers

- Social and family networks, particularly with previous experience of migration, provide children and families with information, access to opportunities and logistical and financial support that encourages their migration.

Family drivers

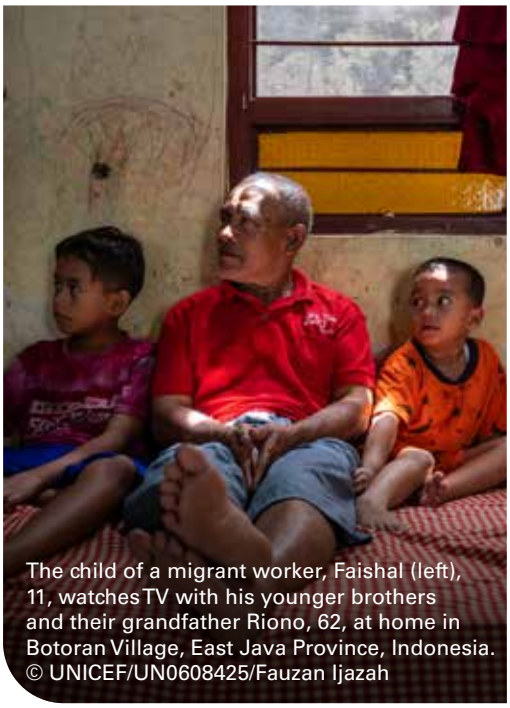
- Economic hardship and poverty in families can drive migration. In Indonesia, migration may be triggered by a need to fund children's education or to improve family welfare by building a house or purchasing a rice field or land.

Individual drivers

- Child marriage can be considered a driver of migration.
- Access to improved educational opportunities is also considered a driver of migration for youth in Indonesia.

3. Protection risks

Indonesian children who migrate internationally, particularly those who migrate irregularly, face a range of protection risks. These can include exposure to arrest, detention and deportation in their host countries, which, in turn, can expose children to the risk of family separation; child labour and economic exploitation, including in informal or clandestine contexts and industries; sexual exploitation and trafficking; and limited access to services, including birth registration (for children who are born abroad), education and affordable health services. These risks are further detailed in the Thailand and Malaysia country briefs.



The child of a migrant worker, Faishal (left), 11, watches TV with his younger brothers and their grandfather Riono, 62, at home in Botoran Village, East Java Province, Indonesia. © UNICEF/UN0608425/Fauzan Ijazah

Stateless children and families may face challenges in obtaining birth certificates and other forms of documentation due to a lack of information, bureaucratic obstacles and financial barriers. While steady progress has been made in birth registration for children, in 2019, over 11 million children in Indonesia were still without birth certificates.[18]

Indonesia is a major source country (destination and transit) for child trafficking for the purposes of sexual and labour exploitation. According to US Trafficking in Persons reports, sex traffickers often use debt or job offers to coerce and deceive girls into commercial sex, specifically in Batam and Jakarta, as well as close to mining operations in Maluku, Papua and Jambi provinces. Child sex tourism is particularly prevalent in the Riau Islands bordering Singapore as well as in Bali.[19] Undocumented migrant children are reported to be exposed to hazardous forms of child labour in different industries in Indonesia, including offshore fishing, mining, domestic service, construction, the sale and transportation of illicit drugs and the sex industry,[20] where they are vulnerable to all forms of violence, trafficking and forced labour.[21]

Refugee and asylum-seeking children and irregular migrants are at risk of being detained and exposed to exploitation and abuse in immigration detention centres. A report released in October 2020 documented the experiences of 43 Indonesian ex-detainees (including two children) after they were deported back to Indonesia. The report details allegations of *"routine and systematic abuse, child labour, obstruction of justice, widespread skin disease and appalling sanitation facilities".*[22]

Children who remain behind while their parents migrate may also face protection risks. A Ministry of Social Affairs study carried out in 2018 found that, in many cases, care is provided by extended family members when parents migrate, and they do not always have the capacity to deliver sufficient support and care for children remaining behind.[23] A 2011 study that focused on children aged 12 years and under of overseas workers in Indonesia found that, even where the children were left in the care of their mother, they were more likely to have poor psychological well-being than children living with both parents.[24]

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[18] United Nations Children's Fund, *The State of Children in Indonesia*, 2020, <www.unicef.org/indonesia/sites/unicef.org.indonesia/files/2020–06/The-State-of-Children-in-Indonesia-2020.pdf>.

[19] United States Department of State, *2020 Trafficking in Persons Report: Indonesia*, <www.state.gov/reports/2020-trafficking-in-persons-report/indonesia>.

[20] Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, Concluding observations on the initial report of Indonesia, 9 October 2017, CMW/C/IDN/CO/1, para. 32.

[21] *2020 Trafficking in Persons Report: Indonesia.*

[22] Europe Solidaire Sans Frontieres, 'Indonesian, Malaysian Human Rights Commissions Want Detention Centre Reform', 9 October 2020.

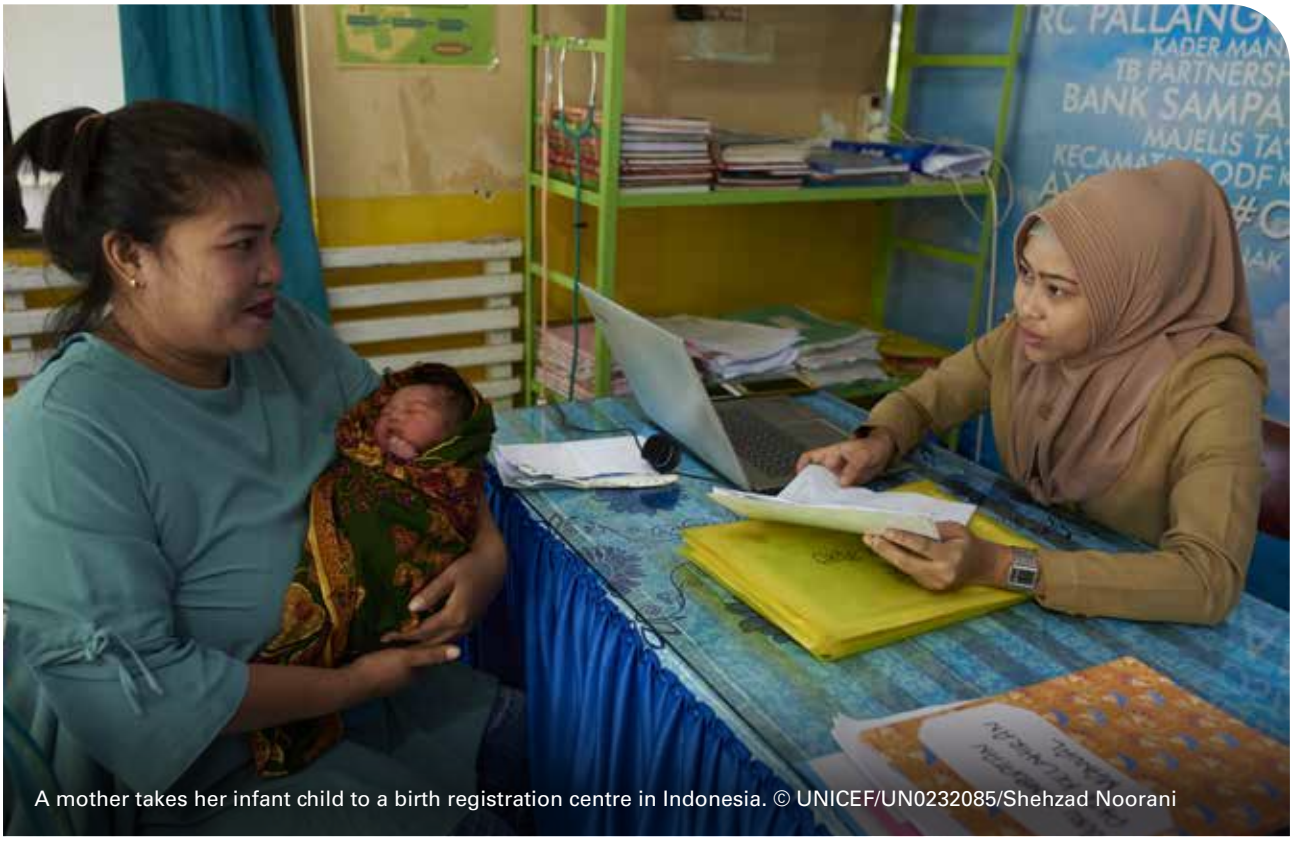
[23] International Organization for Migration Indonesia, 'Covid-19 and Exacerbated Risks Faced by Indonesian Migrant Workers' Children Left Behind', 12 October 2021, <https://indonesia.iom.int/news/covid-19-and-exacerbated-risks-faced-indonesian-migrant-workers-children-left-behind>.

[24] Jordan, L., and E. Graham, 'Resilience and Wellbeing Amongst Children of Migrant Parents in Southeast Asia', *Child Development*, September-October 2012, vol. 83, no. 5, pp. 1672–1688.

4. Policies, laws and services for children affected by migration

ASEAN Member States, including Indonesia, have taken important steps towards protecting the rights of children affected by migration. In particular, the ASEAN Declaration on the Rights of Children in the Context of Migration, which was adopted in November 2019, and the Regional Plan of Action on implementing the Declaration, adopted in October 2021, provide a solid framework for the protection of children in the context of migration. Indonesia has also ratified the United Nations Convention on the Rights of the Child, which sets out a comprehensive framework of rights, including for children affected by migration.

While Indonesia is not a party to the Refugee Convention 1951 or its 1967 Protocol, it has a long tradition of hosting refugees. The Constitution of the Republic of Indonesia acknowledges the right to seek and be granted asylum.[25] Furthermore, under the Law on Child Protection, refugee children are included within the definition of children in emergency situations and are to be afforded special protection in accordance with humanitarian law.[26] Moreover, the main legislation that defines and regulates the status of refugees is Presidential Regulation 125/2016. Article 1.1 of Regulation 125/2016 adopts the definition of refugees from the Refugee Convention 1951. Indonesian law acknowledges the role of UNHCR in processing all refugee status determinations in the country. However, Indonesian law does not provide for permanent local settlement of refugees but rather a temporary right to stay in the country pending status determination. It also does not contain any legal prohibition against detaining (child) asylum seekers or refugees in connection with their status. A 2019 Circular Note from the Ministry of Education supports refugee children's access to formal and non-formal education at all levels in certain locations in the country.[27]



A mother takes her infant child to a birth registration centre in Indonesia. © UNICEF/UN0232085/Shehzad Noorani

[25] Article 28 of the Law Concerning Human Rights also references the right to seek asylum but the Law on Immigration does not contain any reference to asylum seekers or refugees and anyone without valid travel documents can be refused entry.

[26] Articles 59–61, Law on Child Protection.

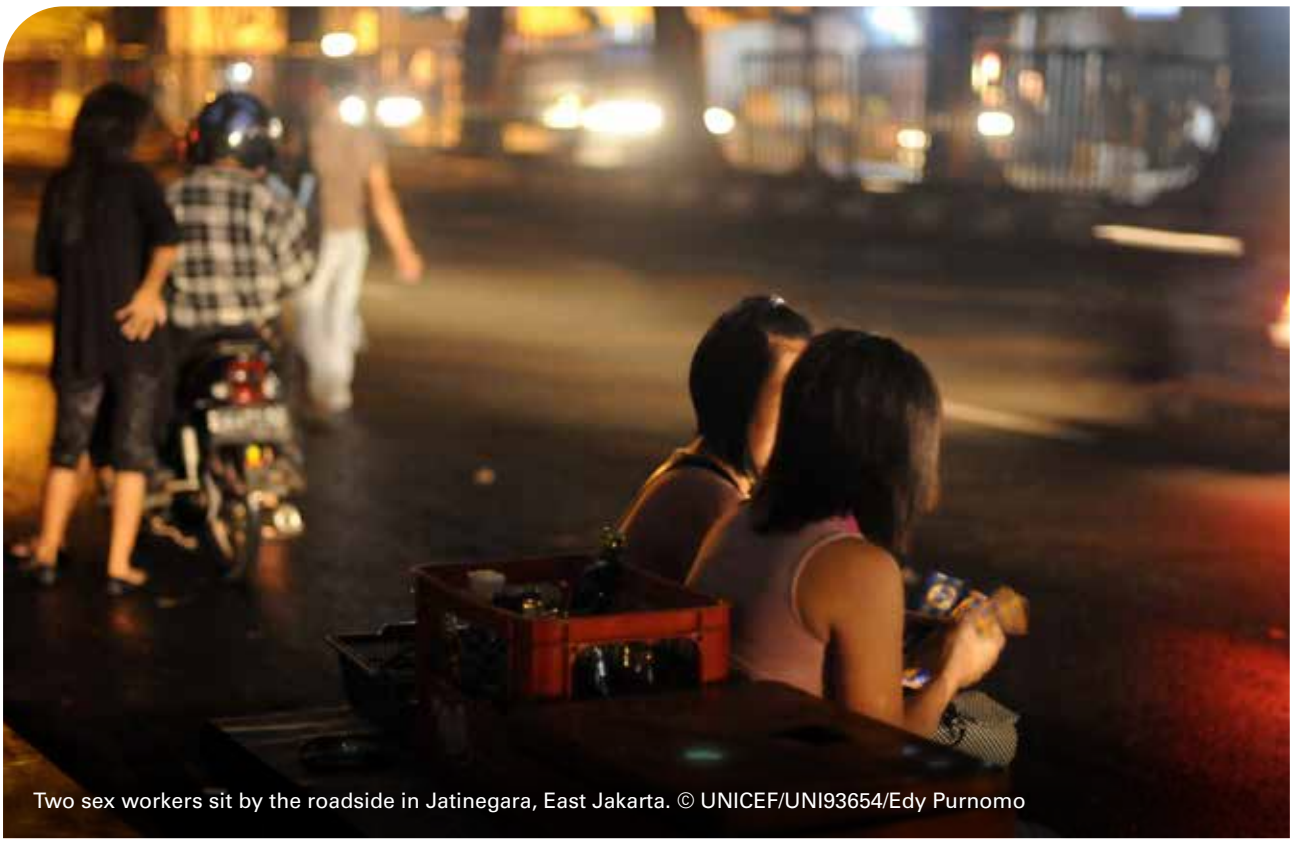
[27] 'Priority Actions for Inclusion of Refugee Children in Indonesia'.

Irregular entry into Indonesia can result in the application of administrative sanctions, which may even apply to children below the minimum age of criminal responsibility and without the safeguards provided in criminal laws and procedures.[28]

The anti-trafficking laws in Indonesia require demonstration of proof of force or coercion to constitute child sex trafficking. More specifically, the laws require demonstration of the threat of force, use of force, abduction, incarceration, fraud, deception, abuse of authority or position of vulnerability, debt bondage or the giving of payment or benefit. In addition, the anti-trafficking provisions do not have extraterritorial application, which limits their effectiveness in responding to cases of child trafficking.

Indonesia's laws on child protection, the juvenile justice system and human rights apply to children affected by migration. These laws restrict the circumstances in which a child may be deprived of their liberty, confirming that it shall be used only as a measure of last resort, for the shortest period of time and only in accordance with the law.[29] Additionally, detention in the juvenile justice context is only permitted where a child is over the age of 14 and the crime is punishable with imprisonment of at least seven years and would thus not apply to immigration offences.[30]

The Indonesian child protection law also requires the application of the 'best interests' principle, but only in specific circumstances. These include child protection cases which refer to acts designed to guarantee and protect children and their rights,[31] and are therefore unlikely to include migration cases that do not involve a child protection referral.



Two sex workers sit by the roadside in Jatinegara, East Jakarta. © UNICEF/UNI93654/Edy Purnomo

[28] Indonesia, Law on Immigration 2011, Articles 1(31) and Chapter VII.

[29] Articles 16 and 64, Law on Child Protection, Articles 2–3 and 81, Law on Juvenile Justice System and Article 66, Law Concerning Human Rights (note that Article 66(5) of the Law Concerning Human Rights expressly provides that, where a child is deprived of liberty, she/he shall not be separated from her/his parents unless it is in the child's interest.

[30] Article 32, Law on Juvenile Justice System.

[31] Indonesia, Law on Child Protection 2002, as amended, Article 2.

5. Suggested next steps

Data and research

Collect comprehensive data on children affected by migration, including the risks and needs of children who remain behind.

There are a lack of comprehensive data on the number, profile and situations of children affected by migration, in particular of children who remain behind to migrating parents. Data should be collected, published and made widely accessible to all relevant government and non-government stakeholders to enable them to develop concrete, evidence-based programmes to address the key challenges facing children affected by migration. In addition, the Government should have a mechanism or central database to track trafficking investigations.

Law and policies

Amend the human/child trafficking laws to remove the requirement for a particular means to be used for child trafficking offences and to ensure that provisions have extraterritorial application.

Due to the cross-border nature of the offence, it is important that the laws addressing child trafficking can apply extraterritorially. In addition, it is important to remove the requirement for a particular means, such as a demonstration of force, fraud or coercion, to be used for child trafficking offences.

Amend gaps in the immigration and child protection laws.

Ensure that the best interests of the child principle applies to all decisions concerning children, including immigration-related decisions.

Programmes

Ensure that all children have birth certificates and that all new births are recorded.

Efforts should be made to ensure that all Indonesian children are registered at birth as a fundamental step towards securing their future. This includes raising awareness within communities and ensuring that services for registering newborns are easily accessible to families.

Ensure a more inclusive approach to the vulnerable population of child refugees and asylum seekers. Efforts should continue to enhance the access of children and youth to quality child protection services, expanded access to secondary and tertiary education and to enable refugee children and youth to access skills and vocational training.

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