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# RESOLVING POLICY CONUNDRUMS: ENHANCING HUMANITARIAN PROTECTION IN SOUTHEAST ASIA

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By Marie McAuliffe

# RESOLVING POLICY CONUNDRUMS

## Enhancing Humanitarian Protection in Southeast Asia

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## Executive Summary

Southeast Asia has a long and complex history of migration within and outside the region, linked to uneven economic development and income disparity, demographic and social change, urbanization, transnational and civil conflict, and persecution. Migration flows within the region are often driven by mixed motivations, and many are unregulated or unauthorized. Countries within the region must often simultaneously contend with irregular labor migration, asylum and refugee flows, as well as significant populations at risk of displacement caused by exclusion, persecution, and a limited ability to generate basic incomes and live in safety and dignity. Furthermore, there is an absence of “protection infrastructure”<sup>1</sup> in the region to deal with these complex flows and populations; while some countries may tolerate asylum seekers and refugees, formalized protection is seen as something that is done by actors external to the region and left to the international community.

The May 2015 humanitarian crisis stemming from irregular maritime flows of Rohingya (a persecuted minority in Myanmar) and Bengalis in the Bay of Bengal brought these issues into sharp focus. Long-term systematic persecution and interethnic violence in Myanmar (also known as Burma), and a lack of livelihood opportunities in Bangladesh (where many displaced Rohingya have fled) has led to a surge in maritime migration to Thailand, Malaysia, and Indonesia. In May 2015, thousands of people became stranded in the Bay of Bengal and the Andaman Sea when Thailand, Malaysia, and Indonesia refused them permission to disembark and smugglers abandoned their vessels.

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*Countries within the region must often simultaneously contend with irregular labor migration, asylum and refugee flows, as well as significant populations at risk of displacement.*

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The humanitarian crisis grew as countries in the region embarked on a series of bilateral and multilateral negotiations to formulate a response. Notably, these took place outside existing regional organizations or forums such as the Bali Process or the Association of Southeast Asian Nations (which convened an emergency meeting on the issue, but not until July 2015). Initially, the countries most affected (Indonesia, Malaysia, and Thailand) formulated a response related to the rescue, relief, and temporary shelter of those stranded. Shortly thereafter, in late May, the Thai government hosted a one-off special meeting that included countries in the region, international organizations, and some donor countries. Participants set out proposals and recommendations on (1) protecting people at sea; (2) preventing irregular migration, smuggling, and trafficking; and (3) addressing the root causes of these flows and creating livelihood opportunities in at-risk communities.

Implementing these recommendations may prove challenging, given their nonbinding nature and the need to coordinate with the work of existing forums and processes. Meanwhile, countries outside the region have offered practical but selective support: many pledged funds and offered operational assistance; far fewer were willing to offer third-country resettlement to refugees caught up in the crisis, amid concerns about creating additional incentives to migrate. Meanwhile, recent public opinion surveys undertaken in several Southeast Asian countries indicate strong support for refugees and other immigrants, which may affect policymakers’ political calculus.

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1 The term “protection infrastructure” is borrowed from Nicholas Sitaropoulos’s analysis of Greece in the late 1990s. Sitaropoulos uses “protection infrastructure” to encompass domestic law, national policies, and administrative practices on protection. See Nicholas Sitaropoulos, “Modern Greek Asylum Policy and Practice in the Context of the Relevant European Developments,” *Journal of Refugee Studies* 13, no. 1 (2000): 105–17.



While the May 2015 crisis highlighted the lack of protection infrastructure in the region, it also evoked cooperation and leadership on the humanitarian issues requiring immediate attention. Further, regional policymakers appeared to recognize that protection processes and systems must be improved in a coordinated way, and include countries of origin. Southeast Asian countries may no longer be able to rely on actors outside the region for protection solutions. That said, donor countries and international organizations can continue to play an important role in building necessary capacity.

The events of May 2015 illustrate the importance of multifaceted responses that simultaneously address protection, migrant rights, and broader migration and border management needs. Policymakers might consider the following actions:

- ***Enhance protection systems and processes in the region, while maintaining manageable asylum pathways and flows.*** Donor countries and international organizations can support bilateral and multilateral efforts to develop national and regional protection infrastructure (e.g., by supporting national-level legislation, policies, and processes, and a new humanitarian fund to help Rohingya and Bangladeshi migrants), and engage civil society in these efforts. Supporting the expansion of resettlement capacity in the region—for example, in new resettlement countries like Cambodia—is another crucial step.
- ***Improve the lives of at-risk populations like the Rohingya in the region.*** Targeted development assistance could improve the health, nutritional, and education outcomes of at-risk populations, and improve infrastructure (e.g., schools, housing, health centers, and roads) in broader communities.
- ***Address rising anti-Rohingya and anti-Muslim sentiment in Myanmar, and encourage the country's government to respect the rights of its noncitizen residents and recognize long-term residents, including the Rohingya, as citizens.*** Besides continued bilateral and multilateral political engagement with Myanmar on these issues, civil-society initiatives such as the Global Community Engagement and Resilience Fund can offer valuable approaches to tackling violent extremism.
- ***Build national migration and border management capacity, and tackle smuggling and trafficking.*** Developing an evidence base on irregular movement, migrant smuggling, and human trafficking—and understanding how they intersect with asylum flows in the region—could inform policy and prevent irregular flows from escalating into another humanitarian crisis. In addition to antitrafficking and anticorruption monitoring, donor country and international organization workshops and training on building border management capacity could be expanded to include migration policy programs.
- ***Strengthen the rights of labor migrants and irregular migrants.*** Regional policymakers might consider a regional “development” visa for semi- or low-skilled workers, with a quota system, to facilitate legal migration and serve as a way for countries to meet development goals or priorities. This may create an incentive for migrants to regularize their immigration status, complementing existing efforts by the International Labor Organization, for example, to strengthen the rights of labor and irregular migrants through regularization programs.



## I. Introduction

Human displacement, asylum movements, refugee and stateless populations, and irregular labor migration flows have long posed challenges for Southeast Asia as a region,<sup>2</sup> and to some countries within it more than others. Many countries in the region face the inherent difficulties of managing archipelagic and isolated borders, making entry and border protection challenging. There are ongoing efforts to eradicate illicit migratory practices, including the corrupt behaviors that enable migrant smuggling and human trafficking to continue or even flourish. Meanwhile, the region's record of protecting basic human rights is mixed.

This report is presented as a case study on the policy responses to the May 2015 maritime flows of Rohingya and Bengalis in the Bay of Bengal and Andaman Sea. The case study approach offers some benefits by allowing analysis and discussion to be squarely rooted in contemporary migration practice. It also allows consideration of alternative approaches to policy and practice with the benefit of hindsight and within a broader context, including beyond a “refugee” lens.

The case of Rohingya refugees in Southeast Asia deserves the attention and concerted cooperation of regional and nonregional actors for several reasons:

- The initial (unilateral) responses to an acute but not particularly large maritime migration flow of Rohingya and Bangladeshi migrants in May 2015 highlighted deficiencies in regional approaches, policies, and practices relating to rescue at sea as well as mixed migration flows.
- Notwithstanding the deficiencies, the region was able to respond to the humanitarian crisis and outline a number of proposals for cooperation aimed at improving regional capability in several areas.
- The long-term nature of exclusion, persecution, and/or displacement of Rohingya by origin, transit, and host governments over decades points to the need for an adjustment to current regional and national policy and practice.
- Analysts have recently highlighted the existence of multiple indicators of pregenocide conditions, placing further pressure on states and nonstate actors to negotiate and secure effective and sustainable policies to improve the conditions of Rohingya.
- The nature of human trafficking and smuggling means that unless and until the smuggling and trafficking of Rohingya are eradicated or significantly reduced, there is a risk that such “business” will continue to expand. This has the potential to draw in other groups of people—as demonstrated by the maritime flows of early 2015, in which Bangladeshi Bengalis were also involved.
- There is perhaps an underestimated level of public concern in Southeast Asian communities about the rights of migrants, including those seeking protection, regardless of their reasons for moving.

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2 Definitions of Southeast Asia differ slightly; however, it is widely accepted that the region comprises the arc of countries south of China, extending from Myanmar to the easternmost province of Indonesia. The United Nations defines Southeast Asia as Brunei Darussalam (Brunei), Cambodia, Indonesia, the Lao People's Democratic Republic (Lao PDR), Malaysia, Myanmar, the Philippines, Singapore, Thailand, Timor-Leste, and Vietnam. See United Nations Statistics Division, “Composition of Macro Geographical (Continental) Regions, Geographical Sub-Regions, and Selected Economic and Other Groupings,” updated October 31, 2013, <http://unstats.un.org/unsd/methods/m49/m49regin.htm>. Formal and short country names are from United Nations Group of Experts on Geographical Names (UNGEGN), “List of Country Names” (working paper no. 54, 26<sup>th</sup> session, UNGEGN, Vienna, May 2-6, 2011), [http://unstats.un.org/unsd/geoinfo/UNGEGN/docs/26th-gegn-docs/WP/WP54\\_UNGEGN%20WG%20Country%20Names%20Document%202011.pdf](http://unstats.un.org/unsd/geoinfo/UNGEGN/docs/26th-gegn-docs/WP/WP54_UNGEGN%20WG%20Country%20Names%20Document%202011.pdf).



- The events of May 2015 clearly highlight that effective responses to irregular maritime migration must be multifaceted and incorporate protection, the management of borders and migration, and efforts to counter smuggling and trafficking. Ideally, responses need to be based on a better understanding of why and how people move, as well as how the rights of migrants can be improved and/or maintained.

Though inevitably limited by the paucity of key data (e.g., on the extent of smuggling and trafficking, and the size of irregular migrant populations), reliance on open-source data, and the dynamic nature of migration flows and international relations, this report aims to give context to discussions of humanitarian protection in Southeast Asia, and of Rohingya maritime migrants in particular. By contemplating these topics within the broader frame of international migration in the region—including concerns about irregular (labor) migration, migrant smuggling, and human trafficking—this study is able to examine underlying factors frequently lost in a protection-only analysis and to offer suggestions on pressing issues related to humanitarian response.

This analysis begins by outlining the conundrums facing policymakers in the region, before turning to the key features of migration in and through Southeast Asia. It then provides a brief summary of the situation of the Rohingya people and an overview of the array of policy and operational responses—at the national, regional, and international level—to the May 2015 humanitarian crisis. The final sections analyze the current national and regional protection and migration management mechanisms, before offering some conclusions and policy recommendations.

## II. Forced Migration in Southeast Asia and Policy Conundrums

The migration patterns and processes occurring within national and regional economic, social, and security environments to some extent reflect migration policy settings. Where, how, when, and with whom people migrate often depends on the options available to them, with many of those options determined by policy—both directly and indirectly. In migration, as in many other areas of state regulation, it is challenging to find the right policy balance between *influencing* behavior and *responding* to changes in behavior. Policymakers must also consider foreign policy, international human rights obligations, border security, and trade implications. Migration is a rich and complicated area of policy.

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*It is challenging to find the right policy balance between influencing behavior and responding to changes in behavior.*

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Within this, and as one of the more complex and challenging areas of migration policy, asylum and refugee policymaking are riddled with tension. Negotiating competing aspects of national interest with those of international interest (at the bilateral, regional, or multilateral levels) can result in challenging





policy conundrums. It is useful, therefore, to reflect at the outset on some of the key migration and protection policy conundrums facing policymakers<sup>3</sup> in Southeast Asia, which include:

- **Incentives.** How can protection systems and processes be enhanced in the region without creating incentives that result in large increases in asylum flows? How can the lives of people in at-risk populations in key locations be significantly improved without creating incentives for others to migrate to those locations?
- **Protecting populations.** How can Myanmar be influenced to uphold the human rights of its noncitizen residents without damaging its fragile transition to democracy and stability? How can Myanmar (and Thailand and others) be influenced to recognize long-term noncitizen resident populations as citizens?
- **Enforcement.** How can migrant smuggling be significantly reduced and border management enhanced without undermining humanitarian credentials and obligations?
- **Labor migrants' rights.** Concomitantly, how can migrant workers' rights be strengthened without reducing access to other countries' labor markets, and how can unauthorized labor migration be significantly reduced without significantly damaging key industries?

The conclusions and policy recommendations outlined in the final section address these questions directly, and highlight the need for multifaceted responses that consider international protection as part of broader regional migration systems and dynamics. First, however, it is useful to examine the features and manifestations of migration patterns and processes in Southeast Asia. This helps reveal the frames of reference within which policy is made, as well as the corresponding gaps or weaknesses that policy may seek to fill or improve upon.

### III. Migration in Southeast Asia: An Overview

International migration in the region is an age-old phenomenon, linked to urbanization, demographic change, international trade, cultural exchange, labor migration, colonialism, conflict, exclusion and persecution, environmental change, and natural disaster.<sup>4</sup> This phenomenon has been extensively researched and documented, with academics, researchers, civil-society actors, and international organizations often referring to the “great complexity” that characterizes migration in Southeast Asia.<sup>5</sup> This complexity in part reflects the economic, ethnic, and demographic diversity of the countries within

3 For the purpose of this analysis, “policymakers” have a direct role in asylum policy at the national or regional level, and include officials in Southeast Asian countries, in international organizations (e.g., the United Nations High Commissioner for Refugees [UNHCR], International Organization for Migration [IOM], and United Nations Office on Drugs and Crime [UNODC]), as well as in donor countries.

4 Maruja M. Asis and Nicola Piper, “Researching International Labor Migration in Asia,” *The Sociological Quarterly* 49, no. 3 (2008): 423–44; Graeme Hugo, “The Changing Dynamics of ASEAN International Migration,” *Malaysian Journal of Economic Studies* 51, no. 1 (2014): 43–67; Graeme Hugo, *Migration in the Asia-Pacific Region* (N.p.: Global Commission on International Migration, 2005), [www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/policy\\_and\\_research/gcim/rs/RS2.pdf](http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/policy_and_research/gcim/rs/RS2.pdf); Amarjit Kaur and Ian Metcalfe, “Introduction,” in *Mobility, Labour Migration and Border Controls in Asia*, eds. Amarjit Kaur and Ian Metcalfe (New York: Palgrave MacMillan, 2006); Susan Kneebone, “The Labeling Problem in Southeast Asia’s Refugee Crisis,” *The Diplomat*, August 12, 2015, <http://thediplomat.com/2015/08/the-labeling-problem-in-southeast-asias-refugee-crisis/>.

5 See, for example, Hugo, “The Changing Dynamics of ASEAN International Migration;” Amarjit Kaur, “Labour Migration Trends and Policy Challenges in Southeast Asia,” *Policy and Society* 29, no. 4 (2010): 385–97; and Nicola Piper, “Migration and Social Development: Organizational and Political Dimensions” (program paper 39, Social and Development Program, United Nations Research Institute for Social Development, Geneva, May 2009), [www.unrisd.org/unrisd/website/document.nsf/\(httpPublications\)/BF5F31527388A6D6C12575DA002D8FB3?OpenDocument](http://www.unrisd.org/unrisd/website/document.nsf/(httpPublications)/BF5F31527388A6D6C12575DA002D8FB3?OpenDocument).



the region.<sup>6</sup> It also reflects the considerable variation in political and civil systems, with Myanmar's ongoing transition to democracy in particular posing both opportunities and challenges for the region.

A review of the extensive literature on Southeast Asian migration highlights the following key features:

- For many countries, migration entails significant levels of both emigration and immigration as well as transit migration, and the hosting of vulnerable populations (refugees, asylum seekers, internally displaced persons [IDPs], and stateless persons). For many countries in the region, migration policies therefore need to reflect their interests as both a sending and receiving country.<sup>7</sup>
- There is significant income or development disparity and a strong trend of migrants from lower income countries moving to higher income countries within the region (and to countries outside the region). There is also a strong spatial dimension to migration within the region, with larger levels of migration occurring between countries sharing borders.<sup>8</sup>
- There are high levels of intra-regional migration, with long-term corridors of migration evident, making bilateral relationships on migration important.<sup>9</sup>
- Migration is dominated by temporary labor migration, with smaller components of permanent (skilled and family) migration, student migration, and forced migration.<sup>10</sup>
- Migration involves high proportions of unregulated or unauthorized movement, mostly in relation to temporary labor migration but also in response to protection issues.<sup>11</sup> The prevalence of unauthorized entry and irregular migrant populations is linked to a number of broader elements, including labor market regulation, industry or sector reliance on irregular migrants, human trafficking, and migrant smuggling.<sup>12</sup>
- Mixed migration flows occur in the region (involving movements of people with and without international protection needs) as do flows of migrants with mixed motivations.<sup>13</sup>

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- 6 Maureen Hickey, Pitra Narendra, and Katie Rainwater, "A Review of Internal and Regional Migration Policy in Southeast Asia" (working paper 8, Migrating out of Poverty Program, University of Sussex, September 2013), 7, <http://migratingoutofpoverty.dfid.gov.uk/files/file.php?name=wp8-hickey-review-of-internal-and-regional-migration-policy-in-sea.pdf&site=354>.
- 7 Federico Soda, Stine Laursen, and Loretta Loria, "Migration Policies and Regional Cooperation," in *Situation Report on International Migration in East and South-East Asia*, ed. Regional Thematic Working Group on International Migration including Human Trafficking (Bangkok: IOM, 2008), [http://publications.iom.int/bookstore/free/Situation\\_Report.pdf](http://publications.iom.int/bookstore/free/Situation_Report.pdf).
- 8 Hugo, "The Changing Dynamics of ASEAN International Migration," Naomi Hatsukano, "Improving the Regulatory and Support Environment for Migrant Workers for Greater Productivity, Competitiveness, and Social Welfare in ASEAN" (discussion paper, Economic Research Institute for ASEAN and East Asia, Jakarta, February 2015), <http://environment.asean.org/download/eria-files/eria-inclusive/5e%20Improving%20regulatory%20and%20support%20environment%20for%20migrantworkers.Ms%20Naomi.docx>.
- 9 Hugo, "The Changing Dynamics of ASEAN International Migration."
- 10 Ibid.; Hatsukano, "Improving the Regulatory and Support Environment for Migrant Workers."
- 11 Hickey, Narendra, and Rainwater, "A Review of Internal and Regional Migration Policy in Southeast Asia."
- 12 UNODC, *Migrant Smuggling in Asia: Current Trends and Related Challenges* (Bangkok: UNODC, 2015), [www.unodc.org/documents/southeastasiaandpacific/Publications/2015/som/Current\\_Trends\\_and\\_Related\\_Challenges\\_web.pdf](http://www.unodc.org/documents/southeastasiaandpacific/Publications/2015/som/Current_Trends_and_Related_Challenges_web.pdf); Fariastuti Djafar and Mohd Khairul Hisyam Hassan, "Dynamics of Push and Pull Factors of Migrant Workers in Developing Countries: The Case of Indonesian Workers in Malaysia," *Journal of Economics and Behavioral Studies* 4, no. 12 (2012): 703–11.
- 13 Marie McAuliffe, "Seeking the Views of Irregular Migrants: Decision Making, Drivers and Migration Journeys" (occasional paper no. 5, Irregular Migration Research Programme, Australian Department of Immigration and Border Protection, Canberra, 2013), [www.border.gov.au/ReportsandPublications/Documents/research/views-irregular-migrant-decision-drivers-journey.pdf](http://www.border.gov.au/ReportsandPublications/Documents/research/views-irregular-migrant-decision-drivers-journey.pdf); Graeme Hugo, George Tan, and Caven Jonathan Napitupulu, "Indonesia as a Transit Country in Irregular Migration to Australia" (occasional paper no. 8, Irregular Migration Research Programme, Australian Department of Immigration and Border Protection, Canberra, 2014), [www.adelaide.edu.au/apmrc/research/completed/Indonesia\\_Transit\\_Country\\_IMtoA\\_Report.pdf](http://www.adelaide.edu.au/apmrc/research/completed/Indonesia_Transit_Country_IMtoA_Report.pdf).



- There has been an absence of large-scale acute forced migration flows stemming from civil or transnational conflict in recent years; instead, there have been discrete long-term flows associated with protracted persecution and exclusion.<sup>14</sup>
- The challenges of managing migration are compounded by those related to IDPs, citizenship recognition, and stateless populations.<sup>15</sup>
- It appears that intra-regional asylum seeking is heavily intertwined with livelihood strategies related to systemic, intergenerational persecution. Asylum flows tend to be discrete, and have become part of the migration survival strategies of specific communities, most notably for Rohingya.<sup>16</sup>
- International migration in the region is (inexorably) linked to other phenomena, including internal migration, urbanization, diaspora networks, and changes in demography and development.<sup>17</sup>

### A. *Asylum Flows and At-Risk Populations in the Region*

Historical data from the United Nations High Commissioner for Refugees (UNHCR) indicate that Vietnam, Cambodia, and the Philippines were all major sources of refugees in the 1970s and 1980s, with Myanmar becoming a major source country in the mid-1990s. Thailand and Malaysia have hosted large numbers of refugees from Myanmar over many years. Rohingya tend to travel by sea from the Rakhine Province in western Myanmar via Bangladesh, Thailand, and on to Malaysia; Burmese ethnic minorities (e.g., Chin, Karen, Shan, and Mon) move to Thailand by crossing the land border. While Myanmar's transition to democracy has seen some people return from neighboring Thailand and Malaysia, the country continues to be the origin of significant numbers of refugees (see Table 1).<sup>18</sup>

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*More than half of all Southeast Asian nations have stateless populations, some of significant size.*

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Recent UNHCR data show that current asylum flows within Southeast Asia are fairly discrete and originate mainly in Myanmar. These flows have extended to Malaysia, Thailand, Indonesia, and (for a certain period) Australia. Overall, and as shown in Figure 1, the movement patterns of asylum seekers and populations at risk for forced migration (otherwise known as at-risk populations) have two main features. First, and notwithstanding the intraregional flows from Myanmar, most people in these groups originate *from* or transit *through* Southeast Asia on their way to other regions, including South Asia (e.g., Rohingya to Bangladesh and India) and western Europe (e.g., Vietnamese, Cambodians, and Lao to France), with smaller numbers heading to North America (e.g., Filipinos to the United States and Canada) and Australia (e.g., from Afghanistan, Iran, and Pakistan). Second, more than half of all Southeast Asian nations have stateless populations, some of significant size; two of the world's three largest such

14 UNHCR, *Global Trends 2014* (Geneva: UNHCR, 2015), <http://unhcr.org/556725e69.html>; UNHCR, "Subregional Operations Profile—South-East Asia," accessed September 10, 2015, [www.unhcr.org/pages/4b17be9b6.html](http://www.unhcr.org/pages/4b17be9b6.html); UNHCR, *UNHCR Projected Global Resettlement Needs 2016* (Geneva: UNHCR, 2015), [www.unhcr.org/558019729.html](http://www.unhcr.org/558019729.html).

15 Katherine Southwick, "Preventing Mass Atrocities against the Stateless Rohingya in Myanmar," *Journal of International Affairs* 68, no. 2 (2015): 137–56; Soda, Laursen, and Loria, "Migration Policies and Regional Cooperation."

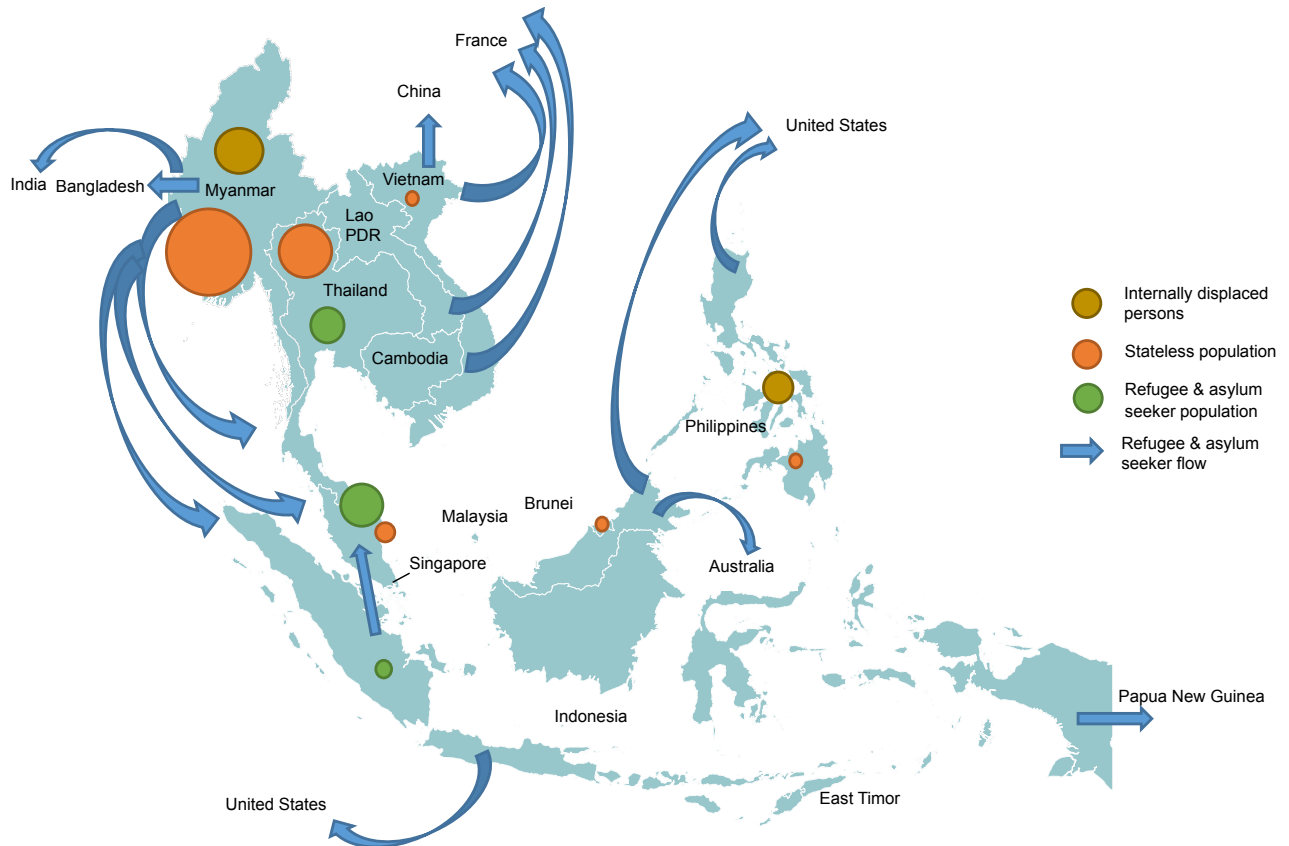
16 Marie McAuliffe, "Can the Region Respond to the Rohingya Crisis?" *The Lowy Interpreter*, May 21, 2015, [www.lowyinterpreter.org/post/2015/05/21/Can-region-respond-to-Rohingya-crisis.aspx?COLLCC=665779653&](http://www.lowyinterpreter.org/post/2015/05/21/Can-region-respond-to-Rohingya-crisis.aspx?COLLCC=665779653&).

17 Kaur, "Labour Migration Trends and Policy Challenges in Southeast Asia;" Asis and Piper, "Researching International Labor Migration in Asia."

18 UNHCR, *Global Trends 2014*.

populations reside in Myanmar (Rohingya) and Thailand (hill-tribe ethnic minorities and others<sup>19</sup>). IDP populations are also significant, and are mainly found in Myanmar and Thailand. Stateless populations and IDPs are marginalized to a greater extent compared to the broader population, and may face persecution, discrimination, and/or exclusion.

**Figure 1. At-Risk Populations and Asylum Seekers in Southeast Asia**



*Notes:* Populations are not to scale, but circle size indicates their relative size. Flows are directional only and do not account for volume.  
*Source:* Based on data from UNHCR, *Global Trends 2014* (Geneva: UNHCR, 2015), <http://unhcr.org/556725e69.html>; UNHCR data in Table 1; and destination country data retrieved from the UNHCR, “UNHCR Population Statistics Database,” accessed September 8, 2015, <http://popstats.unhcr.org>. The underlying map comes from Free Vector Maps, “Map of Southeast Asia with Countries - Single Color,” updated July 12, 2013, <https://freevectormaps.com/world-maps/southeast-asia/WRLD-SEA-01-0002>.

As Figure 1 and Table 1 show, at-risk populations residing in Southeast Asia (IDPs and stateless persons) significantly outnumber refugees and asylum seekers. The 810,000 stateless persons living in Myanmar are almost all Rohingya—the largest stateless group in the world, according to UNHCR data.<sup>20</sup> Rohingya also account for a large proportion of refugees that move within the region (along with other ethnic/subethnic groups from Myanmar such as Chin, Karen, and Mon), although the largest Rohingya refugee population resides just outside the region, in Bangladesh (32,000 live in refugee camps and an estimated 200,000 live without legal status in the broader population).<sup>21</sup>

19 Katja Dombrowski, “Stateless and Without Rights,” D+C Development and Cooperation, August 21, 2014, [www.dandc.eu/en/article/many-ethnic-minorities-thailand-are-stateless-and-thereby-without-rights](http://www.dandc.eu/en/article/many-ethnic-minorities-thailand-are-stateless-and-thereby-without-rights).

20 UNHCR, *Global Trends 2014*.

21 UNHCR, “Bangladesh,” (fact sheet, August 2015), [www.unhcr.org/50001ae09.html](http://www.unhcr.org/50001ae09.html).

**Table 1. Refugees, Asylum Seekers, Internally Displaced and Stateless Persons in Southeast Asia, 2014**

	As a Receiving Country			Internal At-Risk Populations			As an Origin Country		
	Refugees <sup>(1)</sup>	Asylum Seekers	Total	IDPs	Stateless	Total	Refugees <sup>(1)</sup>	Asylum Seekers	Total
Brunei					20,524	20,524	1	1	2
Cambodia	63	40	103				13,062	263	13,325
Indonesia	4,270	6,916	11,186				14,408	1,773	16,181
Lao PDR							7,482	117	7,599
Malaysia <sup>(2)</sup>	99,381	51,240	150,621		40,000	40,000	468	957	1,425
Myanmar				376,500	810,000	1,186,500	479,001	51,347	530,348
Philippines <sup>(2)</sup>	222	109	331	142,430	6,370	148,800	668	1,118	1,786
Singapore	3		3				59	38	97
Thailand	130,238	7,931	138,169		506,197	506,197	231	413	644
Timor-Leste							13	10	23
Vietnam					11,000	11,000	313,418	3,140	316,558
			<b>300,413</b>			<b>1,913,021</b>			<b>887,988</b>

IDPs = internally displaced persons.

Notes: <sup>(1)</sup> Refugees include persons in refugee-like situations; <sup>(2)</sup> figures do not include 80,000 Filipino Muslims in Malaysia without status and reported in the category “other” in UNHCR’s *Global Trends 2014*.

Source: UNHCR, *Global Trends 2014*.

Most asylum seekers traveling within the region are Rohingya (see Box 1), the majority of whom are from Myanmar. Bangladesh hosts the largest number of Rohingya, followed by Malaysia, Thailand, and India.<sup>22</sup> Asylum seekers and refugees from other countries typically have destinations outside the region, including China,<sup>23</sup> France, the United States, Papua New Guinea (PNG), India, and Australia.

22 As of 2014, Bangladesh hosted 232,471 refugees and asylum seekers from Myanmar; Malaysia hosted 139,609; Thailand, 129,609; and India, 17,271. See UNHCR, *Global Trends 2014*.

23 The 300,000 Vietnamese who moved to China between 1979 and 1982 integrated into communities there and are awaiting citizenship. In March 2006, the United Nations High Commissioner for Refugees, António Guterres, described China’s response to them as “one of the most successful integration programmes in the world.” See UNHCR, “Statement to Media by Mr. António Guterres, United Nations High Commissioner for Refugees, on the Conclusion of his Mission to the People’s Republic of China, Beijing, 23 March 2006” (press release, March 23, 2006), [www.unhcr.org/4427aae04.html](http://www.unhcr.org/4427aae04.html).



### Box 1. The Ongoing Persecution of the Rohingya

At an estimated 1.5 million to 2 million, the Rohingya represent the largest stateless group in the world. About 1 million live in Myanmar (a country of around 54 million). Another million or so are spread across Bangladesh, Pakistan, India, Malaysia, Thailand, and Indonesia.

Myanmar has long regarded the Rohingya people as unauthorized migrants, and they have been the subject of systematic discrimination taking multiple forms over many generations. The Rohingya people's identity is questioned in Myanmar, as is their history; they tend to be referred to as "Bengali Muslims" or the "so-called Rohingya." The Rohingya population's unauthorized status is perhaps most pointedly demonstrated by their inability to secure citizenship in Myanmar, rendering them stateless. In the 2014 population census—the first in Myanmar in over 30 years—Rohingya were not included in the list of ethnic groups.

In 1982, the (first) Burmese Citizenship Act stipulated that any ethnic group that had settled in Myanmar after 1823 was not entitled to citizenship. Although the facts are contested, some assert that the Rohingya were brought to the region as laborers by the British colonial administration following the first Anglo-Burmese war of 1824-26. The 1982 citizenship law thus severely curbs the rights of a group who may have resided in Myanmar for over 160 years. The restrictions they have faced over time include bars on public employment and public office, an inability to access birth certificates (not issued to them since 1994), restricted residential rights, severe limitations on freedom of movement, and limited or no ability to access education and health care services. Though temporary registration cards were made available to them since 1995, these only provide proof of residence and do not mention place of birth.

Paradoxically, anti-Rohingya violence in Myanmar has grown progressively worse even as democratic reform processes have deepened and other forms of widespread interethnic conflict that had plagued many in Myanmar have abated. There appear to be at least two main reasons for this: (1) unlike other ethnic groups repressed by the ruling regime, Rohingya have never been included in the 135 officially recognized ethnic groups in Myanmar and remain stateless; and (2) there has been a recent rise in pro-Buddhist sentiment, including among extremist Buddhist groups who are openly anti-Muslim and at times allegedly pronounce "what resembles genocidal language." Some analysts have observed a recent increase in public discourse that feeds on a fear of "global Muslim power," which Rohingya are characterized as representing. It has also been argued that pregenocide conditions are now evident in Myanmar, making the resolution of their long-term systemic persecution an urgent matter. In 2012, following extreme anti-Rohingya violence in Myanmar's Rakhine Province, Myanmar's President Thein Sein suggested that the United Nations High Commissioner for Refugees (UNHCR) resettle the entire Rohingya population. UNHCR rejected the President's suggestion, noting that the Rohingya were located within Myanmar and had not crossed a border, and were therefore not refugees.

Sources: International Institute for Strategic Studies, "Reform Fails to Help Myanmar's Rohingya," *Strategic Comments* 19, no. 10 (2013): viii–ix; Philip Heijmans, "Myanmar Criticised for Excluding Rohingyas from Census," Al Jazeera, May 29, 2015, [www.aljazeera.com/news/2015/05/myanmar-criticised-excluding-rohingyas-census-150529045829329.html](http://www.aljazeera.com/news/2015/05/myanmar-criticised-excluding-rohingyas-census-150529045829329.html); Yen Snaing, "Final Census Results Released, Sans Ethnic and Religious Data," *The Irrawaddy*, May 29, 2015, [www.irrawaddy.org/burma/final-census-results-released-sans-ethnic-and-religious-data.html](http://www.irrawaddy.org/burma/final-census-results-released-sans-ethnic-and-religious-data.html); Matt Schissler, Matthew J. Walton, and Phyu Phyu Thi, "The Roots of Religious Conflict in Myanmar," *The Diplomat*, August 6, 2015, <http://thediplomat.com/2015/08/the-roots-of-religious-conflict-in-myanmar/>; Katherine Southwick, "Preventing Mass Atrocities against the Stateless Rohingya in Myanmar," *Journal of International Affairs* 68, no. 2 (2015): 137–56; Saw Yan Naing, "UNHCR Rejects Rohingya Resettlement Suggestion," *The Irrawaddy*, July 13, 2012, [www.irrawaddy.org/burma/unhcr-rejects-rohingya-resettlement-suggestion.html](http://www.irrawaddy.org/burma/unhcr-rejects-rohingya-resettlement-suggestion.html).



## B. The Regional Migration Policy Context

The Association of Southeast Asian Nations (ASEAN) is the principal multilateral forum in the region addressing migration. The way ASEAN talks about migration is illustrative of the inherent tensions that its member states (as origin, destination, and transit countries) face in managing their competing national interests, particularly those involving sensitive transnational policy issues such as asylum. ASEAN focuses on (skilled) labor migration, with very little attention given to forced migration outside of (labor-focused) trafficking and smuggling.<sup>24</sup> For example, the 2012 ASEAN Human Rights Declaration draws heavily on the Universal Declaration of Human Rights, but places greater emphasis on “migrant workers” as a specific (vulnerable) group than on asylum seekers or refugees,<sup>25</sup> and includes a caveat: “Every person has the right to seek and receive asylum in another State *in accordance with the laws of such State, and applicable international agreements.*” The Declaration therefore grants states leeway to implement more restrictive asylum practices within their national legal frameworks, limiting many individuals’ access to this right in practice.

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*The rights of labor migrants receive less attention than the more heavily emphasized goal of labor market access.*

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The ASEAN Plan of Action for Cooperation on Immigration Matters (October 2000) is focused primarily on labor migration, particularly the freer flow of skilled migrants,<sup>26</sup> and consequently is limited in its focus on human trafficking and irregular migration. These topics are discussed in labor (economic) terms, and in fact, the plan does not mention “refugees,” “asylum seekers,” “forced migration,” or “international protection.” It is also important to note that the rights of labor migrants receive less attention than the more heavily emphasized goal of labor market access.<sup>27</sup> For those economies that rely on remittances, ensuring access to labor markets is an obvious priority—and, perhaps, results in them only mutedly championing the rights of their citizens working abroad.<sup>28</sup> The degree of pragmatism evident in regional discourse on migrant rights—and the existence of large-scale irregular labor migration—may also reflect very real challenges to the effective management of borders, especially archipelagic and isolated borders.

### I. Regional Forums with a Focus on Protection

The term “forced migrants” generally includes refugees, asylum seekers, IDPs, people displaced by development or environmental degradation, and victims of trafficking.<sup>29</sup> The policy discourse in Southeast

24 Nicola Piper, “A Problem by a Different Name? A Review of Research on Trafficking in South-East Asia and Oceania,” *International Migration* 43, no. 1 (2005): 202–33; Hugo, “The Changing Dynamics of ASEAN International Migration.”

25 “The rights of women, children, the elderly, persons with disabilities, migrant workers, and vulnerable and marginalized groups are an inalienable, integral and indivisible part of human rights and fundamental freedoms.” See Association of Southeast Asian Nations (ASEAN), “ASEAN Human Rights Declaration,” ASEAN, November 18, 2012, [www.asean.org/asean-human-rights-declaration/](http://www.asean.org/asean-human-rights-declaration/).

26 This is being realized as part of the ASEAN Economic Community Agenda 2015 and ASEAN mutual recognition agreements on skilled workers.

27 On this point, note the 2007 ASEAN declaration and related 2008 work plan. ASEAN, “ASEAN Declaration on the Protection, and Promotion of the Rights of Migrant Workers,” ASEAN, January 13, 2007, [http://asean.org/?static\\_post=asean-declaration-on-the-protection-and-promotion-of-the-rights-of-migrant-workers](http://asean.org/?static_post=asean-declaration-on-the-protection-and-promotion-of-the-rights-of-migrant-workers).

28 Martin Ruhs argues that, for sending countries, the tension between (1) gaining, maintaining, and expanding access to the labor markets of receiving countries, and (2) gaining, maintaining, and expanding the rights of their citizens can be very difficult to manage, and that trade-offs are common. See Martin Ruhs, *The Price of Rights: Regulating International Labor Migration* (Princeton and Oxford: Princeton University Press, 2013).

29 Alexander Betts, *Forced Migration and Global Politics* (Chichester, United Kingdom: Wiley-Blackwell, 2009); Stephen Castles, Hein de Haas, and Mark J. Miller, *The Age of Migration: International Population Movements in the Modern World*, 5<sup>th</sup> ed. (Hampshire, United Kingdom: Palgrave Macmillan Ltd., 2014); Anne T. Gallagher, “Exploitation in Migration: Unacceptable but Inevitable,” *Journal of International Affairs* 68, no. 2 (2015): 55–74.



Asia, however, tends to focus more on “irregular migration” and on migrant workers in particular.<sup>30</sup> There is little explicit reference to the traditional, forced migrant categories of “asylum seekers” and “refugees.” This conceptualization has been evident for decades. During the Comprehensive Plan of Action for Indo-Chinese Refugees (CPA) in the 1980s and 1990s, for example, ASEAN persistently but ambiguously referred to refugees as “illegal immigrants/displaced persons (refugees) from Indochina.”<sup>31</sup>

## Box 2. Asia-Pacific Regional Forums That Have Addressed Protection

**The Manila Process.** The Manila Process was established in 1996 to discuss trends in irregular migration and trafficking, but is no longer active. Besides the Association of Southeast Asian Nations (ASEAN), members included Australia, China, Japan, New Zealand, and South Korea, with the International Organization for Migration (IOM) providing support.

**Asia-Pacific Consultations on Refugees and Displaced Persons and Migrants (APC).** Founded by Australia and the UNHCR in 1996, APC examined population movements and related issues within the Asia-Pacific region, but is no longer active. Members included ASEAN, Afghanistan, Australia, Bangladesh, China, India, Japan, Pakistan, South Korea, and Sri Lanka, with IOM and UNHCR as observers.

**The Bangkok Declaration on Irregular Migration.** This 1999 declaration called for regional cooperation on irregular migration among countries of origin, transit, and destination to criminalize trafficking, discourage irregular movements, and increase capacity to manage all forms of migration; and for donor countries and international organizations to provide development assistance to help tackle the root causes of irregular migration.

**The Bali Process.** Cofounded by Australia and Indonesia in 2002, the Bali Process focuses on people smuggling and trafficking (refugee protection has been on its agenda from 2009). Its goals include cooperation on border management and law enforcement; protections for victims of trafficking; tackling the root causes of irregular migration (e.g., providing legal channels); and encouraging countries to adopt consistent asylum adjudication processes, provide refugees with durable solutions, and return those not in need of protection. The Bali Process has more than 45 members, including ASEAN, Afghanistan, Australia, Bangladesh, China, India, Iran, Iraq, Japan, Jordan, New Zealand, Pakistan, South Korea, Syria, Turkey, the United Arab Emirates, the United States, IOM, UNHCR, and the United Nations Office on Drugs and Crime.

**The Jakarta Declaration.** This 2013 declaration called for coordinated responses among countries of origin, transit, and destination to tackle irregular migration, especially in the areas of prevention (e.g., legal channels), early detection of flows, prosecuting those involved in smuggling and trafficking, protecting victims of trafficking, and supporting search and rescue at sea.

*Sources:* The Bali Process, “About the Bali Process,” accessed December 2, 2015, [www.baliprocess.net](http://www.baliprocess.net); The Bali Process, “APC (Asia-Pacific Consultations on Refugees, Displaced Persons, and Migrants),” accessed December 2, 2015, [www.baliprocess.net/other-regional-organizations-processes-and-resources/apc](http://www.baliprocess.net/other-regional-organizations-processes-and-resources/apc); IOM, “APC,” accessed December 2, 2015, [www.iom.int/apc](http://www.iom.int/apc); IOM, “Manila Process,” accessed December 2, 2015, [www.iom.int/manila-process](http://www.iom.int/manila-process); Tan, Vivian, “UNHCR Welcomes Jakarta Declaration to Address Irregular Movements in Asia-Pacific,” UNHCR, August 21, 2013, [www.unhcr.org/5214acff9.html](http://www.unhcr.org/5214acff9.html); IOM, “The Bangkok Declaration on Irregular Migration,” Bangkok, April 23, 1999, [www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/policy\\_and\\_research/rcp/APC/BANGKOK\\_DECLARATION.pdf](http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/policy_and_research/rcp/APC/BANGKOK_DECLARATION.pdf); The Bali Process, “Regional Support Office,” accessed June 20, 2016, [www.baliprocess.net/regional-support-office/](http://www.baliprocess.net/regional-support-office/).

30 Amy Nethery, “Asia’s Refugee Policy Vacuum,” *The Diplomat*, August 27, 2015, <http://thediplomat.com/2015/08/asias-refugee-policy-vacuum/>; Kneebone, “The Labeling Problem in Southeast Asia’s Refugee Crisis.”

31 Kneebone, “The Labeling Problem in Southeast Asia’s Refugee Crisis.”





For at least the past 20 years, efforts to achieve regional agreement on aspects of protection have only been partially successful. Many weaknesses remain.<sup>32</sup> Besides ASEAN (most notably, its Directors-General of Immigration Departments and Heads of Consular Affairs Divisions of the Ministries of Foreign Affairs), other regional forums that have addressed protection issues include the Manila Process; the Bangkok Declaration on Irregular Migration; the Intergovernmental Asia-Pacific Consultations on Refugees and Displaced Persons and Migrants (APC); the Bali Process on People Smuggling, Trafficking in Persons, and Related Transnational Crime (the Bali Process); and the Jakarta Declaration (see Box 2).<sup>33</sup> Some of these have not been specific to Southeast Asia and have included countries from outside the region. Despite a relatively weak regional protection response, many thousands of asylum seekers and refugees have been able to gain temporary asylum or have been resettled outside the region, some have been integrated, and others have been able to return to their countries of origin.<sup>34</sup>

## 2. Protection Frameworks

Formalized protection of asylum seekers and refugees is often characterized as something that is external to the region; informal protection waxes and wanes in the form of a degree of tolerance of some populations of asylum seekers and refugees. The lack of focus on protection translates to, and is reflective of, the lack of protection infrastructure in the region. There is a limited ability for people to lodge an application for protection in the region, a limited ability (of UNHCR) to register and process applications, a limited ability (of the International Organization for Migration [IOM]) to operate in the region to assist migrants. In addition, the rights attached to both asylum seeker and refugee status in the region are limited. In other words, there are few mechanisms currently available in the region for accessing and providing protection, particularly when compared with protection systems elsewhere. In this context, it is logical to assume that many protection needs remain unmet. There have also been recent high-profile instances of possible refoulement<sup>35</sup> in the region, including the return of more than 100 Uighurs to China by Thai authorities in July 2015.<sup>36</sup>

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*Formalized protection of asylum seekers and refugees is often characterized as something that is external to the region.*

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Several countries in the region (Indonesia, Malaysia, Singapore, and Thailand) lack a national legal protection framework (see Table 2). Additionally, only the Philippines, Cambodia, and Timor-Leste are party to the 1951 Refugee Convention (and related Protocol), and few countries are party to the International Labor Organization (ILO) and UN conventions on migrant workers and statelessness (see Table 3). Only about half of the countries in the region are IOM member states; Brunei, Indonesia, Laos, Malaysia, and Singapore are notably not members.<sup>37</sup> The choice to not participate in these frameworks and organizations does not preclude a state from enacting legislation or putting in place systems and processes on the relevant policy issues. However, it may indicate a low level of commitment to *furthering* certain human rights.

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32 Peter Hughes, “Improving National and Regional Responses of Governments to Forced Migration” (background paper prepared for the Centre for Policy Development’s Track II Dialogue on Forced Migration, Bangkok, January 31, 2016).

33 Ibid.

34 Ibid.

35 Refoulement is the forcible return of refugees or asylum seekers to a country where they are liable to be subjected to persecution.

36 U.S. Department of State, *Trafficking in Person Report 2015* (Washington, DC: U.S. State Department, 2015), [www.state.gov/j/tip/rls/tiprpt/2015/index.htm](http://www.state.gov/j/tip/rls/tiprpt/2015/index.htm).

37 IOM, *Bay of Bengal and Andaman Sea Crisis: IOM Response*. (Bangkok: IOM, September 2015), [www.iom.int/sites/default/files/situation\\_reports/file/IOM-Andaman-Sea-Crisis-Situation-Report-September-2015.pdf](http://www.iom.int/sites/default/files/situation_reports/file/IOM-Andaman-Sea-Crisis-Situation-Report-September-2015.pdf).



Table 2. Protection Infrastructure in Southeast Asian States

	Number of Asylum Seekers and Refugees in Country (2014)	1951 Refugee Convention and 1967 Protocol	National Legal Protection Framework?	Refugee Status Determination Process?	Resettlement Country?	Resettlement Processes?	Voluntary Repatriation?
Brunei	0						
Cambodia	103	1992	Yes	Cambodia Refugee Office	Yes		
Indonesia	11,186	-	No	UNHCR	No	UNHCR	UNHCR/ IOM
Laos	0						
Malaysia	150,621	-	No	UNHCR	No	UNHCR	UNHCR/ IOM
Myanmar	0						
Philippines	331	1981	Yes	Department of Justice	ETM	UNHCR/IOM	UNHCR/IOM
Singapore	3	-	No		No	NA	NA
Thailand	138,169	-	No	UNHCR	No	UNHCR	UNHCR/IOM
Timor-Leste	0	2003	Developing				
Vietnam	0	-					

ETM = Emergency Transit Mechanism; IOM = International Organization for Migration; UNHCR = United Nations High Commissioner for Refugees.

Notes: Refugees include persons in refugee-like situations; figures do not include 80,000 Filipino Muslims in Malaysia without status, and reported in the category "other" in UNHCR's *Global Trends 2014*.

Sources: UNHCR, *Global Trends 2014*; United Nations, "Migration Country Profiles," accessed September 8, 2015, <http://esa.un.org/MigGMGProfiles/indicators/files>; UNHCR, "Subregional Operations Profile—South-East Asia," accessed September 10, 2015, [www.unhcr.org/pages/4b17be9b6.html](http://www.unhcr.org/pages/4b17be9b6.html); Asia Pacific Refugee Rights Network (APRRN), "February 2015 Country Update," APRRN, March 9, 2015, <http://aprrn.info/aprrn-february-2015-country-update-newsletter/>; UNHCR, Country Factsheets (various), accessed September 10, 2015, [www.unhcr.org](http://www.unhcr.org); IOM, "Countries," accessed June 28, 2016, [www.iom.int/countries](http://www.iom.int/countries).



Table 3. Southeast Asian States' Signatory Status, Selected International Instruments

	1951 Refugee Convention and 1967 Protocol	1974 SOLAS Convention	1975 ILO Migrant Workers Convention	Either UN Convention on Statelessness	1978 SOLAS Protocol	1988 SOLAS Protocol	1979 SAR Convention	1990 UN Migrant Workers Convention	2000 Anti-Smuggling Protocol	2000 Anti-Trafficking Protocol
Brunei		1987			1987					
Cambodia	1992	1995			1985	2001			2005	2007
Indonesia		1981			1988		2012	2012	2009	2009
Lao PDR									2003	2003
Malaysia		1984			1984	2012				2009
Myanmar		1988			1988				2004	2004
Philippines	1981	1982	2006	2011				1995	2002	2002
Singapore		1981			1984	2000	1997			
Thailand		1985								2013
Timor-Leste	2003							2004	2009	2009
Vietnam		1980			1993	2002	2007			2012

ILO = International Labor Organization; SAR = Maritime Search and Rescue; SOLAS = Safety of Life at Sea.

Note: Philippines has ratified the 1954 Convention relating to the Status of Stateless Persons but not the 1961 Convention on the Reduction of Statelessness.

Source: United Nations, "Migration Country Profiles," Australian Maritime Safety Authority, "Protocol of 1988 Relating to the International Convention for the Safety of Life at Sea, as Amended (SOLAS PROT 1988)," updated August 27, 2015, <https://imo.amsa.gov.au/public/parties/solas88protocol.html>; United Nations, "Treaty Collection," accessed September 8, 2015, <https://treaties.un.org/>.



The absence of protection infrastructure could also be seen as a means of maintaining the current situation within the region. While some countries in the region—particularly those that are relatively wealthy and technologically advanced—undoubtedly possess the means and capability to develop robust protection infrastructure, the prospect of becoming a leader in this area would be widely seen in policy circles as something to be avoided lest it create migration incentives. That said, some countries have expressed interest in enhancing protection. Indonesia, for example, pledged in its 2011-14 National Human Rights Action Plan to accede to the 1951 Refugee Convention and the related 1967 Protocol.<sup>38</sup> Malaysia's response to its 2013 Universal Periodic Review by the United Nations Human Rights Council indicates that while it has no intention of acceding to the Refugee Convention, it has agreed to "improving existing administrative frameworks to better manage and process refugees and asylum seekers in the country," and to "cooperate with international and regional organizations and diplomatic missions to tackle problems experienced by asylum seekers [and] refugees."<sup>39</sup> In the absence of robust protection infrastructure within the region, however, third-country resettlement remains an enduring feature.

It is interesting to note that many more states in the region have signed on to the 2000 antitrafficking and antismuggling protocols, perhaps because they are more straightforward and raise fewer policy conundrums. But even if party to these protocols, some countries rank low on the U.S. Department of State's Trafficking in Persons report, calling into question the extent of their efforts to counter trafficking.

### 3. Public Perceptions of Protection

Recent public opinion surveys indicate high levels of sympathy for refugees and other migrants (including those in search of a better life) across countries in the region (see Appendix C). That said, sympathy toward refugees was relatively low in Thailand and the Philippines, although research in Thailand indicates that people living closer to refugee camps are much more likely to hold positive views of refugees than those living in urban centers away from camps.<sup>40</sup> Public sentiment toward refugees and other immigrants is of particular concern to policymakers in the context of civil-society consultations as well as political cycles. Policymakers that are perceived as out of touch with public sentiment and expectations may face difficulty in implementing unpopular policies.

## IV. Case Study: The May 2015 Humanitarian Crisis

The responses to the acute flows of Rohingya and Bengali maritime migrants in May 2015 highlight the region's strengths in managing humanitarian crises, as well as gaps that might be addressed to improve its capacity to manage migration. Before turning to these responses, the following sections outline key aspects of Rohingya displacement.

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38 The 1951 Convention Relating to the Status of Refugees and its associated 1967 Protocol lay out the internationally recognized definition of refugee status. The Convention defines a refugee as someone who is outside their country of origin and, "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion," is unable or unwilling to return to it. See UNHCR, *Convention and Protocol Relating to the Status of Refugees* (Geneva: UNHCR, 2010), [www.unhcr.org/3b66c2aa10.html](http://www.unhcr.org/3b66c2aa10.html); Office of the High Commissioner of Human Rights (OHCHR), *Kegiatan Ranham Indonesia Tahun 2011-2014 (Indonesia National Plan of Action on Human Rights 2011-2014)* (Jakarta: OHCHR, 2015), [www.ohchr.org/Documents/Issues/NHRA/NAPIndonesiaTahun2011\\_2014.pdf](http://www.ohchr.org/Documents/Issues/NHRA/NAPIndonesiaTahun2011_2014.pdf).

39 Government of Malaysia, "2RP: Responses to Recommendations & Voluntary Pledges" (second review, session 17, March 20, 2014), [www.upr-info.org/sites/default/files/document/malaysia/session\\_17\\_-\\_october\\_2013/recommendations\\_and\\_pledges\\_malaysia\\_2014.pdf](http://www.upr-info.org/sites/default/files/document/malaysia/session_17_-_october_2013/recommendations_and_pledges_malaysia_2014.pdf).

40 Malee Sunpuwan and Sakkarin Niyomsilpa, "Perception, and Misperception: Thai Public Opinions on Refugees and Migrants from Myanmar," *Journal of Population and Social Studies* 21, no. 1 (2012): 47-58.



## A. Ongoing Displacement of the Rohingya People

Bangladesh, along with Malaysia and Thailand, has received the majority of Rohingya migration flows from Myanmar over several decades. About 32,000 Rohingya are in refugee camps in Bangladesh, with a further 200,000 residing in the country as irregular migrants.<sup>41</sup> The largest Rohingya population in Bangladesh resides in an area bordering Myanmar's Rakhine Province, in the district of Cox's Bazar. This group is widely acknowledged as being a stateless forced migrant population at serious risk of further displacement, although little information is available about them.<sup>42</sup> The Bangladeshi government, for example, estimates the total unauthorized population from Myanmar to be anywhere between 300,000 and 500,000, with the vast majority being Rohingya.<sup>43</sup>

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*Since interethnic violence in Myanmar began to escalate in 2012, maritime migration across the Bay of Bengal and Andaman Sea has surged.*

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The situation of the Rohingya of Bangladesh is dire. They receive little government support and have limited opportunities to engage in paid employment. They remain stateless, and many are considered to be illegal migrants; consequently, they have limited or no access to the support services that might be granted to refugees. The tightening of fishing permits has further reduced their ability to pursue modest livelihoods.<sup>44</sup> The situation for the officially recognized refugee population is also bleak. In May 2015, the Bangladeshi government announced plans to forcibly relocate all people living in the two official refugee camps to Hatiya Island in the Bay of Bengal.<sup>45</sup>

Since interethnic violence in Myanmar began to escalate in 2012, maritime migration across the Bay of Bengal and Andaman Sea has surged, as Rohingya and other migrants flee a lack of livelihood opportunities and/or conditions of persecution, exclusion, and violence in Myanmar and Bangladesh.<sup>46</sup> UNHCR estimates that, between mid-2012 and mid-2014, 87,000 people—most of them Rohingya—undertook unauthorized maritime migration from Bangladesh and Myanmar to Thailand and Malaysia. Human rights groups and investigative journalists in the region observed that increased smuggling activity coincided with the trafficking of Rohingya and was directly supported by corrupt Thai officials

41 UNHCR, *South-East Asia Irregular Maritime Movements: January-March 2015* (Bangkok: UNHCR, 2015), <http://reliefweb.int/sites/reliefweb.int/files/resources/554c6a746.pdf>; Nigel O'Connor, "Bangladesh Proposes Interning, Repatriating up to 270K Rohingya to Myanmar," Al Jazeera, November 26, 2014, <http://america.aljazeera.com/articles/2014/11/26/bangladesh-proposesinterningrepatriatingupto270krohingyatomyanma.html>.

42 Syeda Naushin Parnini, "The Crisis of the Rohingya as a Muslim Minority in Myanmar and Bilateral Relations with Bangladesh," *Journal of Muslim Minority Affairs* 33, no. 2 (2013): 281–97; Akm Ahsan Ullah, "Rohingya Refugees to Bangladesh: Historical Exclusions and Contemporary Marginalization," *Journal of Immigrant & Refugee Studies* 9, no. 2 (2011): 139–61.

43 UNHCR, "Subregional Operations Profile—South-East Asia."

44 Thomas Fuller and Joe Cochrane, "Rohingya Migrants from Myanmar, Shunned by Malaysia, Are Spotted Adrift in Andaman Sea," *The New York Times*, May 14, 2015, [www.nytimes.com/2015/05/15/world/asia/burmese-rohingya-bangladeshi-migrants-andaman-sea.html](http://www.nytimes.com/2015/05/15/world/asia/burmese-rohingya-bangladeshi-migrants-andaman-sea.html).

45 Agence France-Presse (AFP), "Bangladesh Plans to Move Rohingya Refugees to Island in the South," *The Guardian*, May 27, 2015, [www.theguardian.com/world/2015/may/28/bangladesh-plans-to-move-rohingya-refugees-to-island-in-the-south](http://www.theguardian.com/world/2015/may/28/bangladesh-plans-to-move-rohingya-refugees-to-island-in-the-south).

46 Kathleen Newland, "Irregular Maritime Migration in the Bay of Bengal: The Challenges of Protection, Management, and Cooperation" (Issue in Brief No. 13, Migration Policy Institute and IOM, Washington, DC and Bangkok, 2015), [www.migrationpolicy.org/research/irregular-maritime-migration-bay-bengal-challenges-protection-management-and-cooperation](http://www.migrationpolicy.org/research/irregular-maritime-migration-bay-bengal-challenges-protection-management-and-cooperation).



and poorly regulated industries, resulting in many Thai officials being charged with trafficking offences in connection with activity.<sup>47</sup>

## B. The Maritime Humanitarian Crisis of May 2015

In May 2015, around 7,000 Rohingya and Bengalis became stranded at sea over several weeks, in dire conditions. Estimates of the number of people who died during the crisis range between 202 and 370.<sup>48</sup> Figure 2 shows the maritime route to Thailand and the onward movement to Indonesia and Malaysia during the crisis.

**Figure 2. Migrants' Maritime Route to Thailand and Subsequent Movements, May 2015**



*Note:* Most of the Rohingya and Bengalis who are smuggled or trafficked by sea depart from Cox's Bazar. It is unclear if any involved in the May 2015 incidents departed directly from Myanmar's Rakhine Province.

*Source:* Author's compilation.

47 See Hiroshi Kotani, "Thailand, Malaysia Step up Efforts to Tackle Rohingya Trafficking," *Nikkei Asian Review*, July 28, 2015, <http://asia.nikkei.com/Politics-Economy/International-Relations/Thailand-Malaysia-step-up-efforts-to-tackle-Rohingya-trafficking>; Associated Press, "Thai Officials among More than 100 Charged with Human Trafficking," *The Guardian*, July 24, 2015, [www.theguardian.com/world/2015/jul/24/thai-officials-among-more-than-100-charged-with-human-trafficking](http://www.theguardian.com/world/2015/jul/24/thai-officials-among-more-than-100-charged-with-human-trafficking). Human-rights groups and investigative journalists include Arakan Project Bangkok, Fortify Rights Bangkok, Human Rights Watch, Reuters journalists Jason Szep and Andrew Marshall, among many others.

48 Royal Thai Government, "Summary of the Special Meeting on Irregular Migration in the Indian Ocean" (press release, May 29, 2015), [www.mfa.go.th/main/en/media-center/14/56880-Summary-Special-Meeting-on-Irregular-Migration-in.html](http://www.mfa.go.th/main/en/media-center/14/56880-Summary-Special-Meeting-on-Irregular-Migration-in.html); IOM, "Missing Migrants Project," updated July 4, 2016, <http://missingmigrants.iom.int/latest-global-figures>. Amnesty International, *Deadly Journeys: The Refugee and Trafficking Crisis in Southeast Asia* (London: Amnesty International, 2015), [www.amnesty.org.au/images/uploads/about/Amnesty\\_Report\\_2015\\_The\\_Refugee\\_and\\_Trafficking\\_Crisis\\_in\\_Southeast\\_Asia.pdf](http://www.amnesty.org.au/images/uploads/about/Amnesty_Report_2015_The_Refugee_and_Trafficking_Crisis_in_Southeast_Asia.pdf).



The crisis was precipitated by a crackdown on migrant smuggling and trafficking operations in Thailand, amid mounting evidence that Thai authorities were involved in trafficking operations in jungle camps. On May 1, 2015, a mass grave containing 32 bodies was discovered in a jungle camp used by traffickers in the Thai border district of Sadao, near the Thailand-Myanmar border.<sup>49</sup> There were also reports of officials from Myanmar and Malaysia having been involved in trafficking Rohingya<sup>50</sup> although no changes appear to have been brought or other measures taken, unlike in Thailand.<sup>51</sup>

Part of the response by Thai authorities to the reports was its “help on” policy, which involves intercepting boats and providing supplies before pushing them back out to sea. As migrant smugglers sought landing in Malaysia and Indonesia instead, the crisis was further exacerbated by Indonesian and Malaysian authorities replicating the Thai “help on” policy.<sup>52</sup> This eventually led to smugglers abandoning entire boatloads of people without water or food in the Andaman Sea.<sup>53</sup>

### C. National, Subregional, Regional, and External Responses

The regional response to the maritime humanitarian crisis was initially limited to unilateral responses by directly affected states, including Thailand, Malaysia, Indonesia, and Myanmar (see Appendix A for a timeline of responses). Rescue-at-sea obligations (including those outlined in international instruments) appear to have been subjugated to narrower national interests, most notably in the form of pushback operations, and under the rubric of countering people smuggling.

Although difficult to verify, it appears that both national- and regional-level responses were initially fragmented, uncoordinated, and inconsistent. Senior government officials publicly confirmed “help on” policies, for example, while at the same time local officials and fishermen in Malaysia and Indonesia were reportedly rescuing and assisting migrants in Aceh and Langkawi.<sup>54</sup> Unilateral responses (however fragmented) appear to have lasted for about two weeks (May 6-20), during which time it appears that bi- and trilateral discussions and negotiations were the main processes used in the early stages of formulating a (sub)regional response.

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*It appears that both national- and regional-level responses were initially fragmented, uncoordinated, and inconsistent.*

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The first (sub)regional response, announced on May 20, was limited to the immediate priorities of rescue, relief, and temporary shelter (as articulated in a trilateral statement by Indonesia, Malaysia,

49 *The Daily Star*, “Bangladeshi Migrants’ Mass Grave in Thailand!” *The Daily Star*, May 1, 2015, [www.thedailystar.net/country/mass-grave-bangladeshi-myanmar-migrants-found-thailand-80115](http://www.thedailystar.net/country/mass-grave-bangladeshi-myanmar-migrants-found-thailand-80115).

50 Laignee Barron and Wa Lone, “Myanmar under Pressure over Human Trafficking in Rakhine,” *The Myanmar Times*, April 24, 2015, [www.mmtimes.com/index.php/national-news/14107-myanmar-under-pressure-over-human-trafficking-in-rakhine.html](http://www.mmtimes.com/index.php/national-news/14107-myanmar-under-pressure-over-human-trafficking-in-rakhine.html).

51 The Thai attorney general’s office charged 104 people (including Thai officials) in late July 2015 with human-trafficking offenses, after an investigation into jungle camps and mass graves. See Kotani, “Thailand, Malaysia Step up Efforts to Tackle Rohingya Trafficking.”

52 On May 13, 2015, Tan Kok Kwee, first admiral of the Malaysian maritime enforcement agency, was reported as saying, “We won’t let any foreign boats come in. If the boats are sinking, they would rescue them, but if the boats are found to be seaworthy, the agency will provide provisions and send them away.” See Gabriel Domínguez, “Pushed Back—Malaysia Refuses Safe Haven to Abandoned Refugees,” *Deutsche Welle*, May 13, 2015, [www.dw.com/en/pushed-back-malaysia-refuses-safe-haven-to-abandoned-refugees/a-18448132](http://www.dw.com/en/pushed-back-malaysia-refuses-safe-haven-to-abandoned-refugees/a-18448132); Fuller and Cochrane, “Rohingya Migrants from Myanmar.”

53 Newland, “Irregular Maritime Migration in the Bay of Bengal;” AFP/Reuters, “Malaysia to Follow Indonesia in Turning Back Migrant Boats; Thousands May Face Starvation at Sea,” Australian Broadcasting Corporation (ABC), May 13, 2015, [www.abc.net.au/news/2015-05-13/malaysia-to-turn-back-migrant-boats/6466726](http://www.abc.net.au/news/2015-05-13/malaysia-to-turn-back-migrant-boats/6466726); Fuller and Cochrane, “Rohingya Migrants From Myanmar.”

54 AFP/Reuters, “2,000 Rohingya Migrants Rescued from Four Boats by Indonesia, Malaysia Authorities,” ABC, May 11, 2015, [www.abc.net.au/news/2015-05-11/about-2000-migrants-rescued-off-indonesia-and-malaysia/6460928](http://www.abc.net.au/news/2015-05-11/about-2000-migrants-rescued-off-indonesia-and-malaysia/6460928).



and Thailand—see Appendix A). Protection-related assistance—for example, registration, refugee status determination processing, temporary or permanent protection, and voluntary return—appears to have been left largely to the international community, including international organizations and other states. IOM, for example, returned hundreds of people to Bangladesh under its assisted voluntary return program.

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*International organizations appear to have played an active and critical role throughout the crisis, both publicly and as part of relevant bilateral, trilateral, and multilateral discussions.*

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There was a notable absence of relevant existing regional organizations or forums, most notably ASEAN and the Bali Process, until much later. Instead, the first multilateral engagement on the crisis was a one-off special meeting hosted by the Thai government on May 29, involving 17 countries as well as international and nongovernmental organizations. The statement from this meeting included a list of 17 proposals and recommendations under three broad headings: “Immediate Response and Protection of People Stranded at Sea;” “Comprehensive Prevention of Irregular Migration, Smuggling of Migrants, and Trafficking in Persons;” and “Addressing Root Causes and Improving Livelihood in At-Risk Communities” (see Box 3 for further details). On July 2, ASEAN convened an emergency ministerial meeting on the crisis. In contrast to the May 29 meeting, it focused on efforts to counter smuggling, trafficking, and irregularity without reference to protection issues, the people affected, prevention, or root causes.<sup>55</sup> International organizations (most notably UNHCR and IOM) appear to have played an active and critical role throughout the crisis, both publicly and as part of relevant bilateral, trilateral, and multilateral discussions. In addition to ongoing engagement with governments, IOM also provided direct care and support to over 2,000 migrants in Thailand and Indonesia, and returned 621 people to Bangladesh from Indonesia between June 11 and August 11 under its assisted voluntary return program.<sup>56</sup> It is less clear whether NGOs were involved in formulating responses, either directly or through consultations.

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55 ASEAN, “Chairman’s Statement, Emergency ASEAN Ministerial Meeting on Transnational Crime Concerning Irregular Movement of Persons in Southeast Asia” (statement, July 2, 2015), <http://reliefweb.int/sites/reliefweb.int/files/resources/Chairman-Statement-Emergency-ASEAN-Ministers-Meeting-on-Transnational-Crime-2-July-2015-1.pdf>.

56 IOM, *Bay of Bengal and Andaman Sea Crisis*.





### **Box 3. Proposals and Recommendations from the Special Meeting on Irregular Migration in the Indian Ocean, May 29, 2015**

#### *Immediate Response: Protection of People Stranded at Sea*

The meeting noted the Joint Statement adopted on May 20, 2015 by Indonesia, Malaysia, and Thailand:

- Intensifying search and rescue operations to ensure safety of the irregular migrants at sea;
- Exploring further means for identifying predictable disembarkation options and proper and harmonized reception arrangements for those rescued;
- Ensuring that UNHCR and IOM have access to the migrants;
- Identifying those with protection needs through effective screening processes, paying particular attention to the protection of the vulnerable groups;
- Strengthening information and intelligence sharing mechanism to provide accurate data on whereabouts of migrants and vessels stranded at sea;
- Establishing a mechanism or joint task force to administer and ensure necessary support, including resources as well as resettlement and repatriation options from the international community to countries that provide humanitarian assistance to the irregular migrants; and
- Mobilizing resources of the international community to the appeals of international organizations to support emergency responses in the spirit of international burden-sharing.

#### *Comprehensive Prevention of Irregular Migration, Smuggling of Migrants, and Trafficking in Persons*

- Strengthening national law enforcement to combat people smuggling and human trafficking and cooperate in eradicating the transnational organized criminal syndicates;
- Identifying national contact points among key law enforcement officers;
- Strengthening operations to curb transnational criminal networks and their activities;
- Establishing a special investigation taskforce among the key affected countries;
- Strengthening data collection, analysis, and information sharing on irregular maritime migration;
- Underlining the need for a transparent and efficient recruitment process;
- Developing and implementing comprehensive multimedia regional communication campaigns on antismuggling; and
- Enhancing legal, affordable, and safe channels of migration.

#### *Addressing Root Causes, and Improving Livelihood in At-Risk Communities*

- Addressing factors in the areas of origin including, among others, capacity building of local communities and providing economic incentives that create more jobs.

Source: Excerpt of the Meeting Summary Statement; Ministry of Foreign Affairs, "Summary Special Meeting on Irregular Migration in the Indian Ocean" (press release, Bangkok, Thailand, May 29, 2015), [www.mfa.go.th/main/en/media-center/14/56880-Summary-Special-Meeting-on-Irregular-Migration-in.html](http://www.mfa.go.th/main/en/media-center/14/56880-Summary-Special-Meeting-on-Irregular-Migration-in.html).

## **D. Responses from Countries Outside the Region**

The responses to the May 2015 crisis from countries outside the region were largely in keeping with their traditional roles in responding to such events and included:

- ***Pledges of funds to international organizations supporting migrants or at-risk populations in the region.*** Turkey pledged USD \$1 million and Japan pledged USD \$3.5 million to UNHCR and IOM, who were supporting migrants directly; neither pledged funds to governments in the region (unlike some Gulf States). Australia pledged an additional USD \$ 4.7 million to the United Nations and the World Food Program to provide food, shelter, and



basic supplies to populations in Myanmar and Bangladesh, with the rationale that if people can live “safe and secure” lives they are less likely to leave their homes.<sup>57</sup>

- **Pledges of funds to support countries providing humanitarian assistance to migrants.** Qatar pledged USD \$50 million and Saudi Arabia USD \$10-20 million to Indonesia.<sup>58</sup> Saudi Arabia and the United Arab Emirates pledged unspecified amounts to Malaysia for a humanitarian fund that was being established by the Malaysian government to assist migrants involved in the crisis.<sup>59</sup>
- **Offers of operational assistance.** Turkey joined rescue efforts by directing one of its military vessels in the region to assist in the regional operational response.<sup>60</sup>
- **Offers of third-country resettlement.** The Gambia made an offer to resettle Rohingya in need of international protection.
- **Engagement in bilateral and multilateral meetings.** As well as presumably engaging in bilateral discussions on a range of issues,<sup>61</sup> countries from outside the region participated in multilateral meetings such as the May 29 special meeting in Bangkok, which was attended by Afghanistan, Australia, Bangladesh, India, Iran, New Zealand, Pakistan, Papua New Guinea, and Sri Lanka (with the United States, Switzerland, and Japan as observers).

These responses indicate strong and practical, although somewhat selective, support from the international community on both the immediate humanitarian crisis as well as longer-term systemic issues. The importance of bilateral relationships, long-standing roles (such as for resettlement countries), and the identification of Rohingya as a Muslim minority group are all evident in the range of pledges, offers, and engagements. The Gambia, for example, announced that it would resettle Rohingya refugees on the basis that “as human beings, more so fellow Muslims, it is a sacred duty to help alleviate the untold hardships and sufferings fellow human beings are confronted with.”<sup>62</sup> Turkey offered humanitarian assistance to the Rohingya and Bengali people affected, and President Erdoğan continues to express Turkey’s strong support of Rohingya as well as other Muslim minority groups such as Uighurs.

Meanwhile, there were a few notable departures from traditional roles. Some resettlement countries (such as Australia) openly declared that they would not resettle any of the refugees, and countries with a history of resettling Rohingya did not offer additional resettlement places.<sup>63</sup> Such countries include Australia, which had granted 251 refugee visas to Rohingya in Bangladesh between July 2008 and June

57 Jack Board, “Australia Pledges More Aid for Rohingyas, Provides Advice for Stopping Boats,” Channel News Asia, May 20, 2015, [www.channelnewsasia.com/news/asiapacific/australia-pledges-more/1859606.html](http://www.channelnewsasia.com/news/asiapacific/australia-pledges-more/1859606.html).

58 United Nations Office for the Coordination of Humanitarian Affairs, “Summary Minutes of Meeting,” (summary minutes, UN-NGO-Donor-Red Cross-Government Coordination Meeting, June 16, 2015), 4, [www.humanitarianresponse.info/en/system/files/documents/files/minutes\\_un-ngo-donor-red\\_cross-govt\\_coordination\\_meeting\\_16\\_jun\\_2015\\_0.pdf](http://www.humanitarianresponse.info/en/system/files/documents/files/minutes_un-ngo-donor-red_cross-govt_coordination_meeting_16_jun_2015_0.pdf).

59 Zuhriin Azam Ahmad, “Riyadh to Chip in for Rohingya,” *The Star*, June 8, 2015, [www.thestar.com.my/news/nation/2015/06/08/riyadh-to-chip-in-for-rohingya-saudi-arabia-positive-towards-msia-proposal-for-humanitarian-fund/](http://www.thestar.com.my/news/nation/2015/06/08/riyadh-to-chip-in-for-rohingya-saudi-arabia-positive-towards-msia-proposal-for-humanitarian-fund/).

60 *Hurriyet Daily News*, “Turkish Military Ship Joins Efforts to Reach Rohingya Muslims,” *Hurriyet Daily News*, May 19, 2015, [www.hurriyetdailynews.com/turkish-military-ship-joins-efforts-to-reach-rohingya-muslims.aspx?pageID=238&nid=82639](http://www.hurriyetdailynews.com/turkish-military-ship-joins-efforts-to-reach-rohingya-muslims.aspx?pageID=238&nid=82639).

61 See, for example, Government of Myanmar, “Ministry of Foreign Affairs Press Release” (press release, Government of Myanmar, June 3, 2015), <http://www.myanmargeneva.org/pressrelease/20150604%20Press%20Release.pdf>.

62 AFP, “South-East Asia Migrant Crisis: Gambia Offers to Resettle all Rohingya Refugees,” *The Guardian*, May 20, 2015, [www.theguardian.com/world/2015/may/21/south-east-asia-migrant-crisis-gambia-offers-to-resettle-all-rohingya-refugees](http://www.theguardian.com/world/2015/may/21/south-east-asia-migrant-crisis-gambia-offers-to-resettle-all-rohingya-refugees).

63 Lisa Cox, “‘Nope, Nope, Nope’: Tony Abbott Says Australia Will Not Resettle Refugees in Migrant Crisis,” *Sydney Morning Herald*, May 21, 2015, [www.smh.com.au/federal-politics/political-news/nope-nope-nope-tony-abbott-says-australia-will-not-resettle-refugees-in-migrant-crisis-20150521-gh6eew.html#ixzz3s736BMMr](http://www.smh.com.au/federal-politics/political-news/nope-nope-nope-tony-abbott-says-australia-will-not-resettle-refugees-in-migrant-crisis-20150521-gh6eew.html#ixzz3s736BMMr).



2010,<sup>64</sup> and Canada, the first country to resettle Rohingya from Bangladesh.<sup>65</sup> While the United States has previously resettled some Rohingya, U.S. officials suggested that third-country resettlement is not a sustainable solution, and called on Myanmar to accept the Rohingya and grant them citizenship.<sup>66</sup>

## V. Looking Ahead: The Challenges of Building Protection Infrastructure in Southeast Asia

Notwithstanding evidence of some inconsistencies between national- and local-level responses (or at least public positions, if not actions), those states directly affected (Thailand, Malaysia, and Indonesia) worked together effectively to formulate a response. It was, however, apparent that sub-regional and regional coordination and preparedness was lacking.

Smugglers' decisions to abandon Rohingya and Bengali migrants at sea appear to have been an unexpected consequence of policy. When Indonesia and Malaysia replicated the Thai "help on" policy by pushing boats back out to sea, smugglers saw their prospects of landing dwindle. On previous occasions, other countries had rescued migrants after Thailand had implemented its policy, and the apparent general hardening in the sub-region appears to have taken smugglers by surprise.<sup>67</sup>

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*Smugglers' decisions to abandon Rohingya and Bengali migrants at sea appear to have been an unexpected consequence of policy.*

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Why did the ASEAN member states most affected decide to not formally invoke ASEAN mechanisms? Perhaps they did not see this as the most effective course of action. For example, as Chair of ASEAN, Malaysia might have recognized the considerable challenges in achieving a timely regional response to the humanitarian crisis. ASEAN's "non-interference" approach, based on consensus, may have hampered a multifaceted response. The Bali Process mechanisms were not invoked either, despite their focus on the issues underpinning the crisis (i.e., smuggling, trafficking, asylum seeking, protection, and regional solutions). It is possible that the large membership of the process may have presented a considerable challenge, as well as its co-chairing arrangements (shared by Indonesia and Australia).

64 Australian Government, Department of Immigration and Border Protection, *Annual Report 2009-10* (Canberra: Commonwealth of Australia, 2010), 98, [www.border.gov.au/ReportsandPublications/Documents/annual-reports/diac-annual-report-2009-10-full-version.pdf](http://www.border.gov.au/ReportsandPublications/Documents/annual-reports/diac-annual-report-2009-10-full-version.pdf); and Australian Government, Department of Immigration and Border Protection, *Annual Report 2008-09* (Canberra: Commonwealth of Australia, 2009), 79, [www.border.gov.au/ReportsandPublications/Documents/annual-reports/annual-report-2008-09-complete.pdf](http://www.border.gov.au/ReportsandPublications/Documents/annual-reports/annual-report-2008-09-complete.pdf).

65 UNHCR, "Canada is First Country to Resettle Rohingya Refugees from Bangladesh" (news release, April 20, 2007), [www.unhcr.org/4628d83d4.html](http://www.unhcr.org/4628d83d4.html).

66 Associated Press, "U.S. Official Urges Myanmar to Give Citizenship to Rohingya," *Wall Street Journal*, June 1, 2015, [www.wsj.com/articles/u-s-official-urges-myanmar-to-give-citizenship-to-rohingya-1433160297](http://www.wsj.com/articles/u-s-official-urges-myanmar-to-give-citizenship-to-rohingya-1433160297).

67 Allegations of Thai authorities pushing back boats have been a regular feature of the commentary on Rohingya maritime migration since at least 2009, with regional neighbors rescuing and/or assisting those affected. Reports from 2013 (and earlier) indicate that the Indonesian navy, the Indian navy, and the Malaysian Maritime Enforcement Agency were rescuing those pushed back to sea by Thai authorities. In May 2015, however, both Malaysia and Indonesia appear to have at least initially also opted for pushback responses. Mekong Migration Network (MMN), "Indonesian Navy Rescues 198 Rohingya near Aceh, Irrawaddy," MMN, February 3, 2009, [www.mekongmigration.org/mmn/?p=373](http://www.mekongmigration.org/mmn/?p=373); Human Rights Watch (HRW), "Thailand: Fleeing Rohingya Shot in Sea by Navy," HRW, March 13, 2013, [www.hrw.org/news/2013/03/13/thailand-fleeing-rohingya-shot-sea-navy](http://www.hrw.org/news/2013/03/13/thailand-fleeing-rohingya-shot-sea-navy); Radio Free Asia (RFA), "Thailand Departs Rohingyas," RFA, March 1, 2013, [www.rfa.org/english/news/myanmar/departs-01032013155437.html](http://www.rfa.org/english/news/myanmar/departs-01032013155437.html); ABC/AFP, "Malaysia Rescues 136 Rohingya Asylum Seekers," ABC, March 11, 2013, [www.abc.net.au/news/2013-03-11/malaysia-rescues-136-rohingya-asylum-seekers/4566048](http://www.abc.net.au/news/2013-03-11/malaysia-rescues-136-rohingya-asylum-seekers/4566048).



Convening a special meeting in Bangkok enabled expediency, and the careful selection of attendees supported a strong focus on developing a multifaceted response plan rather than a consensus-driven compromise statement. Overall, this approach appears to have been beneficial, and probably the most effective in the circumstances, particularly given Myanmar's participation (initially it had indicated it would not attend). The meeting was the first time that the two subregions of Asia (i.e., Southeast Asia and South Asia) came together to discuss the Rohingya situation.<sup>68</sup> The engagement process also highlighted Southeast Asia's leadership on the issue. The release of an outcome summary provided confidence that the issues underpinning the crisis were considered priorities.<sup>69</sup>

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*The region will need to place much less emphasis on protection being “elsewhere” and start to build its own protection infrastructure.*

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The summary of the special meeting also suggests that Southeast Asian countries increasingly recognize the need to address the “root causes” of the crisis more openly and perhaps more comprehensively. While some observers have argued that the summary statement did not go far enough,<sup>70</sup> it does signal that countries affected are increasingly less inclined to ignore the serious situation in Myanmar. It could be said that Southeast Asian countries have received a wake-up call and recognize the need to address the full range of issues in a coordinated and comprehensive manner. With the special meeting having taken place in isolation from existing forums and processes, one of the main challenges will now be to ensure that the outcomes of the special meeting are implemented, that appropriate follow-up mechanisms are in place and that the overlap of the outcomes of the special meeting and the ASEAN emergency meeting are reconciled. The challenge is particularly significant given the nonbinding nature of the special meeting summary and that it is likely to be a list of “proposals and recommendations” rather than an agreed position.

As has been noted, some responses to the crisis diverged from the status quo, raising new questions. Will Southeast Asian countries be able to continue depending on protection solutions outside their regional domain? Australia's initial decision not to resettle any of the stranded Rohingya, and Canada's (public) silence on the issue—coupled with a considerable increase in resettlement places for Syrians following the humanitarian crisis events in Europe in 2015, means that the region will need to place much less emphasis on protection being “elsewhere” and start to build its own protection infrastructure.

At a broader level, the May 2015 humanitarian event highlighted the noticeable lack of protection infrastructure as well as a more subdued focus on labor migrants' rights in the region than would be expected given the high and increasing rates of intra-regional migration. The two appear to be interconnected, and may be characterized as reflecting a level of pragmatism toward human rights involving the subjugation of human rights to national interests appears to be a trend in the region,

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68 Siegfried O. Wolf, “Rohingya Crisis and the ‘Boat People’ Conference: Towards a Regional Solution?” E-International Relations, June 18, 2015, [www.e-ir.info/2015/06/18/rohingya-crisis-and-the-boat-people-conference-towards-a-regional-solution/](http://www.e-ir.info/2015/06/18/rohingya-crisis-and-the-boat-people-conference-towards-a-regional-solution/).

69 Media reporting on the meeting highlighted the fact that root causes were being addressed. See, for example, AFP, “Myanmar, Bangladesh to Address ‘Root Causes’ of Migrant Crisis,” NDTV, May 29, 2015, [www.ndtv.com/world-news/myanmar-bangladesh-to-address-root-causes-of-migrant-crisis-767041](http://www.ndtv.com/world-news/myanmar-bangladesh-to-address-root-causes-of-migrant-crisis-767041).

70 Asia Pacific Refugee Rights Network (APRRN), “The Special Meeting on Irregular Migration in the Indian Ocean: Falling Short of Expectations” (press release, June 1, 2015), <http://aprrn.info/press-release-the-special-meeting-on-irregular-migration-in-the-indian-ocean-falling-short-of-expectations/>; ASEAN Parliamentarians for Human Rights, “Bangkok Meeting a Failure as Delegates Avoid Discussion of Key Issues in Regional Migrant Crisis” (press release, May 29, 2015), <http://us10.campaign-archive2.com/?u=88dabc094b65d7801c004ec98&id=3a93c95133&e=530174fbb7>.



and it is unclear the extent to which external incentives and/or relationships have been influential in shaping this reality.<sup>71</sup>

Protection in the region is sometimes discussed in terms of “harmonization;” however, with such a paucity of protection frameworks, policies, and practices in the region, it is difficult to comprehend how the little that exists could be harmonized.<sup>72</sup> Instead, it is perhaps better to aim for “uniform” or “coordinated” development of protection mechanisms, with managed transitions involving partnerships with both UNHCR and IOM. This would have the advantage of reducing the possibility that one country becomes a potential magnet for movement.

## VI. Conclusions and Policy Implications

The May 2015 humanitarian crisis highlighted—in a dramatic and visible way—that the present array of policies and practices in Southeast Asia are not currently meeting the needs of policymakers, migrants, or the public and fall short of balancing the need to prevent displacement and protect those who are displaced. The unintended consequences of remaining passive or impotent on these issues could potentially be catastrophic for the region. A glance northeast, toward the Middle East and Europe, may provide renewed vigor to policymakers in Southeast Asia to enhance consensus, improve cooperation, and follow through on actions aimed at advancing migrant rights and protection in the region.

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*The further development of protection infrastructure is a priority recognized by both policymakers and, importantly, the public.*

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One of the most positive characteristics of the regional response to the acute flows of Rohingya and Bengali people in May 2015 was the regional cooperation and leadership evoked. The political will and expediency that surrounded the response needs to be acknowledged and supported. There is cause to be cautiously optimistic while at the same time it is important to acknowledge the areas in which cooperation can usefully be further enhanced. There is clearly appetite in the region to improve protection processes and systems. The further development of protection infrastructure is a priority recognized by both policymakers and, importantly, the public. As further development occurs across the region, poverty is reduced, and livelihood strategies are realized, policymakers will need to pay careful attention to public expectations when responding to a range of migration issues including migrant workers’ rights, refugee support, anticorruption in migration management, and ensuring the rights of both nationals and non-nationals are protected. In tandem, policymakers should support national and regional initiatives to encourage social cohesion, including by removing impediments to progress and responding to actors seeking to practice divisiveness by implementing measures to counter violent extremism.

As outlined in this analysis, there are very large populations at risk of forced migration in Southeast Asia, although only small (but increasing) proportions of them have the ability to move either by themselves or with the assistance of migrant smugglers. Given the key features of Southeast Asian international migration patterns, processes, and policy frameworks, there are several ways to enhance consensus and cooperation on protection in the region. The conclusions in this report are intended to provide a basis for discussion, further research, and analysis, and to serve as a platform for future action.

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71 Turkey’s relationship with the European Union, for example, has been a major driver of migration reform.

72 UNHCR, “Subregional Operations Profile—South-East Asia.”



## Considerations for the Future

The following recommendations may offer some guidance to policymakers and stakeholders involved in ongoing deliberations in the region<sup>73</sup>:

### 1. *Enhance protection systems and processes in the region while maintaining manageable asylum pathways and flows.*

- Actively support bilateral and multilateral efforts on the development of uniform protection infrastructure at the national level, including protection-related legislation, policies, and processes. An iterative and coordinated approach has the distinct advantage of mitigating the potential for one country to become a magnet for asylum flows in the region.
- Promote bilateral and multilateral efforts on the development of protection infrastructure at the regional level through regional policy frameworks (e.g., plans, declarations, statements) and through engagement with civil society. For example, existing ASEAN declarations could be amended to include references to asylum seekers, refugees, and stateless persons.
- Engage in and support track-two processes<sup>74</sup> in the region, which can be useful mechanisms to support policy development on complex, enduring issues. These processes also allow input from an array of nongovernmental actors.<sup>75</sup> For example, the three-year Track 2 Dialogue on Forced Migration in the Asia-Pacific, led by the independent Centre for Policy Development, brings together experts from academia, civil society, international organizations, and governments to formulate solutions to forced migration in the region.
- Support the expansion of resettlement countries, including within the region, and further build the capabilities of new resettlement countries, such as Cambodia. Continue to support targeted resettlement of refugees to third countries while building international protection capacity in the region.
- Further the establishment of a new humanitarian fund, including through donor contributions, and explore the opportunity for the fund to provide the basis for a regional humanitarian migration response unit. Such a unit would ideally have a coordination and oversight role in responding to immediate humanitarian issues stemming from migration-related events. The fund has the benefit of being driven and owned by countries within the region, most particularly Malaysia, and may usefully supplement existing bilateral and multilateral contributions.

### 2. *Significantly improve the lives of at-risk populations in key locations—principally Cox's Bazar in Bangladesh and Rakhine Province in Myanmar—while maintaining manageable levels of movement between locations.*

- Improve the lives of people at risk of displacement (like the Rohingya in Myanmar and Bangladesh) by providing coordinated official development assistance through UN agencies and nongovernmental organizations. Increased donor contributions provide the opportunity to improve the health, nutrition, and education of at-risk populations,

73 These recommendations have been grouped according to the policy conundrums outlined in Section II of this report. See Appendix B for further details.

74 While track-one diplomacy describes official discussions (e.g., treaties and peace talks) attended by high-level political or military leaders, track-two diplomacy involves a wider range of civil-society actors (e.g., nongovernmental organizations [NGOs], academics, and religious leaders) on an unofficial or informal basis. United States Institute of Peace, "Tracks of Diplomacy," accessed December 3, 2015, <http://glossary.usip.org/resource/tracks-diplomacy>.

75 Peter Hughes, "Getting Ready to Respond: Is our Region Prepared to Respond to the Mass Displacement of People?" Asia & the Pacific Policy Society, September 10, 2015, [www.policyforum.net/getting-ready-to-respond](http://www.policyforum.net/getting-ready-to-respond).



notwithstanding the ongoing challenges of aid delivery and the need to manage perceptions of bias related to targeting specific populations such as Rohingya.<sup>76</sup>

- Support the construction of infrastructure (such as schools, health centers, and housing) to serve local communities in Bangladesh and Myanmar, and help mitigate some of the drivers of forced migration. Turkey, for example, has helped construct roads and hospitals in African countries such as Somalia,<sup>77</sup> and is becoming a key donor and increasingly active bilateral partner in Southeast Asia.<sup>78</sup>

### ***3. Actively encourage Myanmar to respect the rights of its noncitizen residents and officially recognize long-term residents as citizens (while being mindful of its ongoing fragile transition to democracy and increased stability).***

- Continue bilateral and multilateral engagement with Myanmar on recognizing Rohingya as nationals—or, in the absence of formal recognition as nationals, continue engagement with Myanmar to support respect for the human rights of its “associate citizens.”
- Address rising anti-Rohingya and anti-Muslim sentiment in Myanmar by engaging the support or involvement of grassroots initiatives countering violent extremism, such as the Global Community Engagement and Resilience Fund (GCERF). Myanmar has indicated an interest in being a GCERF pilot country.<sup>79</sup> GCERF donor board members include the United States, Canada, the United Kingdom, Switzerland, Australia, Qatar, and the European Union.

### ***4. Reduce migrant smuggling and human trafficking, and improve border management capacity, while enhancing humanitarian credentials and obligations.***

- Improve data and information on unauthorized migration in the region, including through the establishment of a data hub that makes it easier to coordinate and disseminate evidence of irregular movements, the smuggling of migrants, and human trafficking. In addition to highlighting potential “hotspots” of irregular migration, better information makes it possible for authorities to investigate possible cases of exploitation, abuse, and corrupt practices before a humanitarian crisis unfolds. The Regional Mixed Migration Secretariat, which monitors and reports on migration flows in the Gulf of Aden, is a useful model to examine.
- Expand research on the intersection of smuggling, trafficking, and asylum flows in the region, including through donor-supported research programs drawing on academic and independent researchers as well as international organizations.
- Continue anticorruption and antitrafficking monitoring and reporting with the assistance of donors, including the United States, Canada, EU Member States, Australia, international organizations, civil society, and governments in the region.

76 IRIN Asia, “Myanmar’s Rakhine State—Where Aid Can Do Harm,” IRIN Asia, July 3, 2012, [www.irinnews.org/report/98351/how-to-do-no-harm-in-rakhine](http://www.irinnews.org/report/98351/how-to-do-no-harm-in-rakhine).

77 Abdihakim Aynte, *Turkey’s Increasing Role in Somalia: An Emerging Donor?* (Doha: Al Jazeera Centre for Studies, 2012), <http://studies.aljazeera.net/ResourceGallery/media/Documents/2012/3/22/201232213350836734Turkeys%20Increasing%20Role%20in%20Somalia.pdf>.

78 Erdoğan Albay, “Turkey Shifts its Focus to the East,” Asia & the Pacific Policy Society, October 15, 2015, [www.policyforum.net/turkey-shifts-focus-to-the-east/](http://www.policyforum.net/turkey-shifts-focus-to-the-east/).

79 Global Community Engagement and Resilience Fund (GCERF), “Approval of Report of 2nd Board Meeting” (decision ED.05.15/DOC01, Governing Board, GCERF, May 30, 2015), para 3.9, [www.gcerf.org/wp-content/uploads/30-May-2015-Approval-of-Report-of-2nd-Board-Meeting1.pdf](http://www.gcerf.org/wp-content/uploads/30-May-2015-Approval-of-Report-of-2nd-Board-Meeting1.pdf). More information on GCERF’s pilot program on countering violent extremism in communities can be found at GCERF, “GCERF,” accessed July 5, 2016, [www.gcerf.org](http://www.gcerf.org).



### *5. Concomitantly, strengthen the rights of labor migrants.*

- Consider developing a regional “development” visa with the explicit aim of advancing countries’ development goals or priorities. It could be for semi- or low-skilled workers, could entail a quota system, and work on a ballot system. Progressing through bilateral and multilateral agreements, including under the auspices of ASEAN, would provide for a consistent and coordinated regional approach, which may initially involve only small (but increasing) program numbers. Such a visa would provide incentives for migrants to compete for regular pathways, particularly if it were to expand in size over time. It would also assist countries to some degree by creating incentives for migrants to regularize their immigration status, particularly if it were implemented alongside national regularization programs.
- Continue to focus on improving capacity to manage migration at the national level, including by further developing migration policy capability, anticorruption programs, and border management policies and practices, and providing information materials to visa applicants. Capacity-building programs delivered by international organizations (such as the United Nations Office on Drugs and Crime and IOM), as well as training and workshops coordinated by donor countries, have traditionally focused on border management issues, and these could be usefully expanded to the management of policy development and immigration programs.
- Improve the rights of migrants, including those of labor migrants and irregular migrants through regularization programs. There is a multitude of ways in which migrant rights can be improved in the region, and the ongoing work of ILO (including as part of its TRIANGLE program in Southeast Asia) provides a wealth of information on possible initiatives.<sup>80</sup>

The events of May 2015 clearly demonstrate that effective responses to irregular migration must be multifaceted and incorporate humanitarian protection, the management of borders, and efforts to counter smuggling and trafficking. Responses should be informed by a sound understanding of why and how people move, as well as how the rights of migrants can be maintained or improved.

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80 For information on the TRIANGLE (Tripartite Action to Protect Migrant Workers from Labour Exploitation) project of the International Labor Organization (ILO), see ILO, “New ILO Migration Project to Improve Migrant Workers’ Conditions in South-East Asia” (press release, December 17, 2010), [www.ilo.org/asia/info/public/pr/WCMS\\_150047/lang--en/index.htm](http://www.ilo.org/asia/info/public/pr/WCMS_150047/lang--en/index.htm).





## Appendices

### *Appendix A. Timeline of Responses to the May 2015 Maritime Humanitarian Crisis*

Details of responses to the humanitarian crisis are difficult to verify. Official information from governments directly affected by the crisis (Thailand, Malaysia, and Indonesia) is not plentiful, and while media coverage was extensive, the ability of the media to access the locations as well as migrants affected would have been limited. During the crisis period, the government of Myanmar issued many statements on its policy position as well as operational response, which provide useful insight into its handling of the event. Despite the difficulties in accessing official information, it is possible to obtain a general overview of the crisis response from open source material:

- With the normal landing options in Thailand compromised due to a sharp increase in countermuggling operations that involved (among other things) pushing vessels back out to sea, migrant smugglers appeared to have sought landing in Malaysia and Indonesia.
- In response, Malaysia and Indonesia also pushed vessels back out to sea (early to mid-May 2015). On May 13, 2015, Tan Kok Kwee, first admiral of Malaysia's maritime enforcement agency was reported as saying: "We won't let any foreign boats come in. If the boats are sinking, they would rescue them, but if the boats are found to be seaworthy, the agency will provide provisions and send them away."<sup>81</sup>
- With potential for landing decreasing, some smugglers allegedly abandoned vessels on the high seas, resulting in people dying due to lack of food and water.
- On the face of it, the pushback operations by Thailand, Malaysia, and Indonesia do not appear to have been coordinated; rather, they appear to be a series of unilateral responses. Some local authorities in Indonesia stated that they had rescued migrants following alerts that they would be arriving in the region.<sup>82</sup>
- On May 18, 2015, the Philippine government confirmed that it would not push back boats and that it was ready to assist up to 3,000 people affected by the crisis. It cited its Refugee Convention signatory status, stating "we shall continue to do our share in saving lives under existing and long-standing mechanisms pursuant to our commitments under the convention."<sup>83</sup>
- On May 19, 2015, Myanmar's foreign ministry released a statement: the government "shares concerns" expressed by the international community and is "ready to provide humanitarian assistance to anyone who suffered in the sea."<sup>84</sup>

81 Domínguez, "Pushed Back."

82 AFP/Reuters, "2,000 Rohingya Migrants Rescued from Four Boats by Indonesia, Malaysia Authorities."

83 Paterno Esmaguel, "PH Open to Sheltering 3,000 'Boat People,'" Rappler, May 18, 2015, [www.rappler.com/nation/93577-myanmar-rohingya-boat-people-philippines](http://www.rappler.com/nation/93577-myanmar-rohingya-boat-people-philippines).

84 Government of Myanmar, "Myanmar's View and Efforts on Migrants and Boat People" (press release, May 19, 2015), [www.mofa.gov.mm/wp-content/uploads/2015/06/Press-release-23-May-15.pdf](http://www.mofa.gov.mm/wp-content/uploads/2015/06/Press-release-23-May-15.pdf).



- On May 20, 2015:
  - Malaysian Foreign Minister Anifah Aman and Indonesian Foreign Minister Retno Marsudi held a joint media conference on the crisis. Minister Aman stated that Malaysian intelligence estimated the number of people stranded at sea to be 7,000.<sup>85</sup>
  - At the conference, Aman and Marsudi confirmed that Malaysia and Indonesia would cease pushback operations and provide those stranded with temporary shelter on the basis that the “resettlement and repatriation process will be done in one year by the international community.”<sup>86</sup> They confirmed that assistance would only be provided to those stranded at sea. An estimated further 3,000 people had already swum to shore or been rescued by fishermen in the region.
  - Aman and Marsudi confirmed that they had also been in talks with their Thai counterparts, though Thailand did not offer temporary shelter or other forms of assistance. They also called on the “root causes” to be addressed (but did not refer explicitly to Myanmar or Bangladesh) and recommended convening an emergency meeting of the Association of Southeast Asian Nations (ASEAN).
- On May 20, 2015:
  - Turkey issued a media statement pledging USD \$1 million to United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM) to assist the humanitarian response to the crisis. It also indicated it would assist with the operational response effort.<sup>87</sup>
  - Australia pledged an additional USD \$4.7 million to the United Nations and other humanitarian agencies to support populations in Myanmar and Bangladesh.<sup>88</sup>
  - The United States indicated it was willing to assist UN agencies with processing centers and resettlement.<sup>89</sup>
- On May 21, 2015:
  - According to a Myanmar statement, the Indonesian and Malaysian foreign ministers met in Rangoon with their Burmese counterpart.
  - Myanmar issued a statement arguing that the “country of origin is the first thing to consider when it comes to troubled boat people,” quoting Burmese Commander-in-Chief of Defense Services, Senior General Min Aung Hlaing, that “there was no push against Myanmar citizens to leave the country.”<sup>90</sup> Myanmar contested reports that “over 2,000 Myanmar citizens were . . . among the troubled boat people ashore in Indonesia,” arguing that they were more likely to be from Bangladesh.<sup>91</sup>

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85 AFP, “Malaysia, Indonesia to Accept Boats in Breakthrough on Migrants,” *Jakarta Post*, May 20, 2015, [www.thejakartapost.com/news/2015/05/20/malaysia-indonesia-accept-boats-breakthrough-migrants.html](http://www.thejakartapost.com/news/2015/05/20/malaysia-indonesia-accept-boats-breakthrough-migrants.html).

86 Ibid.

87 Government of Turkey, “Press Release Regarding the Delivery of Humanitarian Aid to the Rohingyas and Bengalis Stranded in the Andaman Sea” (press release no. 160, May 20, 2015), [www.mfa.gov.tr/no\\_-160\\_-20-may-2015\\_-press-release-regarding-the-delivery-of-humanitarian-aid-to-the-rohingyas-and-bengalis-stranded-in-the-andaman-sea.en.mfa](http://www.mfa.gov.tr/no_-160_-20-may-2015_-press-release-regarding-the-delivery-of-humanitarian-aid-to-the-rohingyas-and-bengalis-stranded-in-the-andaman-sea.en.mfa).

88 Board, “Australia Pledges More Aid for Rohingyas.”

89 Sky News, “US ‘Ready to Share Burden’ of Stranded Migrants,” Sky News, May 20, 2015, <http://news.sky.com/story/1487217/us-ready-to-share-burden-of-stranded-migrants>.

90 Government of Myanmar, “Senior General Describes Country of Origin as Top Priority in Troubled Boat People Issue” (press release, May 21, 2015), [www.myanmarpresidentoffice.gov.mm/2015en/?q=issues/family/id-5434](http://www.myanmarpresidentoffice.gov.mm/2015en/?q=issues/family/id-5434).

91 Ibid.



- The government of The Gambia indicated that it would resettle Rohingya refugees on the basis that “as human beings, more so fellow Muslims, it is a sacred duty to help alleviate the untold hardships and sufferings fellow human beings are confronted with.”<sup>92</sup>
- On May 27, 2015, Myanmar issued a statement about a protest in Rangoon against foreign media assertions that the boat people were “Myanmar nationals.”
- On May 28, 2015, Qatar pledged USD \$50 million to help Indonesia shelter Rohingya refugees.<sup>93</sup>
- On May 29, 2015:
  - Thailand convened the Special Meeting on Irregular Migration in the Indian Ocean. Initially, Myanmar indicated it would not attend; however, it did participate along with 15 other countries,<sup>94</sup> UNHCR, the United Nations Office on Drugs and Crime, and IOM. Representatives of the United States, Switzerland, and Japan attended as observers.
  - The Summary of the Special Meeting included 17 proposals under three headings: “Immediate Response: Protection of People Stranded at Sea;” “Comprehensive Prevention of Irregular Migration, Smuggling of Migrants, and Trafficking in Persons;” “Addressing Root Causes and Improving Livelihood in At-Risk Communities.”
- On June 8, 2015, Saudi Arabia pledged support to Malaysia in establishing a humanitarian fund for Rohingya and Bangladeshi migrants. United Arab Emirates also pledged support to the fund.<sup>95</sup>
- On June 20, 2015, Japan pledged USD \$3.5 million to UNHCR and IOM to assist the humanitarian response to the crisis.<sup>96</sup>
- On July 2, 2015, ASEAN convened an Emergency ASEAN Ministerial Meeting on Transnational Crime Concerning Irregular Movement of Persons in Southeast Asia. The focus of the meeting, as reflected in the Chairman’s statement appears to have been narrow, with discussion limited to the links between irregular migration and transnational crimes of smuggling and trafficking.<sup>97</sup>

During and after the crisis, IOM assisted with the care and support of migrants, including the assisted voluntary return and repatriation of migrants to Bangladesh.<sup>98</sup>

92 AFP, “Gambia Offers to Resettle all Rohingya Refugees.”

93 Middle East Eye (MEE), “Qatar Pledges \$50 Million to Indonesia for Hosting Rohingya Refugees,” MEE, May 28, 2015, [www.middleeasteye.net/news/qatar-pledges-50-million-indonesia-hosting-rohingya-refugees-1053290332](http://www.middleeasteye.net/news/qatar-pledges-50-million-indonesia-hosting-rohingya-refugees-1053290332).

94 Afghanistan, Australia, Bangladesh, Cambodia, India, Indonesia, Iran, Lao PDR, Malaysia, Myanmar, New Zealand, Pakistan, Papua New Guinea, The Philippines, Sri Lanka, Vietnam, and Thailand.

95 Ahmad Fairuz Othman, “Saudi Arabia Pledged to Help Malaysia to Set up Rohingyas Humanitarian Fund: PM,” *New Strait Times*, June 7, 2015, <https://sg.news.yahoo.com/saudi-arabia-pledged-help-malaysia-122857024.html>.

96 *Japan Times*, “Japan to Provide \$3.5 Million in Emergency Aid for Rohingya Migrants,” *Japan Times*, June 20, 2015, [www.japantimes.co.jp/news/2015/06/20/national/politics-diplomacy/japan-provide-3-5-million-emergency-aid-rohingya-migrants/#.VfaAgzgVh9A](http://www.japantimes.co.jp/news/2015/06/20/national/politics-diplomacy/japan-provide-3-5-million-emergency-aid-rohingya-migrants/#.VfaAgzgVh9A).

97 The regional response developed at the meeting was limited to law enforcement; analysis and studies on the links between irregular migration and people smuggling/trafficking; communications campaigns in communities designed to prevent movement; information and intelligence sharing on smuggling and trafficking; a trust fund to support humanitarian responses; and the establishment of a task force to respond to crisis situations arising from irregular migration. There was a noticeable lack of reference to drivers and determinants of irregular migration and its “root causes,” asylum seekers, refugees, or migrants and migrant rights.

98 IOM, *Bay of Bengal and Andaman Sea Crisis*.



**Appendix B. Summary of Possible Policy Responses**

Policy Response	Countries Supported/Involved	Possible Donor/ Partner Countries	Nonstate Actors Involved	Links to Forums or Processes
Enhance protection systems and processes in the region while maintaining manageable asylum pathways and flows.				
Actively support the development of uniform protection infrastructure at the national level—legislation, policies, processes.	All SEA countries	United States, Australia, Canada, Switzerland	UNHCR, IOM, Asia Pacific Refugee Rights Network	
Actively support the development of protection infrastructure at the regional level—policy frameworks (e.g., plans, declarations, statements).	All SEA countries		UNHCR, IOM, APRRN	ASEAN
Actively support track two processes in the region, such as the Track 2 Dialogue on Forced Migration in the Asia-Pacific led by the independent Centre for Policy Development.	Indonesia, Malaysia	Australia	Independent experts	
Support the expansion of resettlement countries, including within the region, and further build the capabilities of new resettlement countries.	Cambodia, the Philippines	Australia	UNHCR, IOM, APRRN	
Support the establishment of a new humanitarian fund, including through donor contributions, and explore the opportunity for the fund to provide the basis of a Regional Humanitarian Migration Response Unit.	Malaysia, Indonesia, Thailand	Saudi Arabia, UAE, possibly others (Australia, United States, Canada)	IOM, UNHCR, ICRC, others	ASEAN DGICM
Significantly improve the lives of at-risk populations in key locations while maintaining manageable levels of movement between locations.				
Increase support of at-risk populations in Myanmar and Bangladesh through the provision of coordinated ODA to improve the lives of people at risk of displacement (through UN agencies and NGOs).	Relevant SEA countries	Saudi Arabia, Turkey, Australia (all have expressed commitments), other donor countries	Many currently involved	
Engagement of donor countries to support construction of infrastructure of local communities in Bangladesh and Myanmar.	Bangladesh, Myanmar	Turkey, possibly others		
Active encourage Myanmar to respect the rights of its noncitizen residents and officially recognize long-term residents as citizens (while recognizing its ongoing fragile transition to democracy and increased stability).				
Continued bilateral and multilateral engagement with Myanmar on recognizing Rohingya as nationals. In the absence of this recognition, focus on respecting the human rights of Myanmar's "associate citizens."	All SEA countries	Many currently involved		



<p>Engaging the support/involvement of grassroots initiatives countering violent extremism such as the Global Community Engagement and Resilience Fund (GCERF).</p>	<p>Myanmar, possibly Indonesia and Thailand</p>	<p>GCERF donor board members include the United States, Switzerland, Australia, Canada, the United Kingdom, European Union</p>	<p>GCERF, Tony Blair Faith Foundation, International Centre for Counter-Terrorism</p>	<p>Relevant ASEAN political-security community meetings/working groups</p>
<p>Reduce migrant smuggling and human trafficking, and improve border management capacity while enhancing humanitarian credentials and obligations.</p>				
<p>Consideration be given to developing an “ASEAN development visa” with explicit aims to further countries’ development goals/priorities.</p>	<p>All SEA countries</p>	<p>New Zealand—technical assistance; non-ASEAN countries experiencing shortages in low/semi-skilled workers</p>		<p>ASEAN DGICM</p>
<p>Improve data and information on unauthorized migration movements in the region, including through the establishment of a data hub to support the development of an evidence base on movements.</p>	<p>All SEA countries</p>		<p>RMMS in Kenya could provide a useful model</p>	<p>ASEAN DGICM; Bali Process</p>
<p>Expand research on the intersection of smuggling, trafficking, and asylum flows in the region, including through donor-supported research programs drawing on academic and independent researchers as well as international organizations.</p>	<p>Relevant SEA countries</p>	<p>Australia, United States, European Union, United Kingdom</p>	<p>Academic institutions, independent academics, NGOs</p>	<p>UNODC and IOM Research programs</p>
<p>Continue anticorruption, antitrafficking monitoring and reporting with the assistance of donors, including the United States, Canada, the United Kingdom, Australia, international organizations, civil society, and governments in the region.</p>	<p>All SEA countries</p>	<p>United States (Trafficking in Persons Report)</p>	<p>NGOs</p>	<p>ASEAN</p>
<p>Strengthen rights of labor migrants.</p>				
<p>Improving migrants’ rights, including those of labor migrants and irregular migrants through regularization programs.</p>	<p>All SEA countries</p>	<p>Many currently involved</p>		<p>ASEAN DGICM</p>
<p>Continued focus on improving managed migration, including through further developing migration policy capability, anticorruption programs in migration management, border management policies and practices, information materials for visa applicants.</p>	<p>All SEA countries</p>	<p>Many currently involved</p>	<p>Many currently involved (donor states, academic institutions, policy think tanks, independent academics, etc.)</p>	<p>ASEAN DGICM</p>

APRRN = Asia Pacific Refugee Rights Network; ASEAN = Association of Southeast Asian Nations; DGICM = Directors-General of Immigration Departments and Heads of Consular Affairs Divisions of the Ministries of Foreign Affairs; ICRC = International Committee of the Red Cross; IOM = International Organization for Migration; NGO = nongovernmental organization; ODA = official development assistance; RMMS = Regional Mixed Migration Secretariat; SEA = Southeast Asia; UAE = United Arab Emirates; UNHCR = United Nations High Commissioner for Refugees; UNODC = United Nations Office on Drugs and Crime.

### Appendix C. Public Perceptions of Immigrants, Selected Southeast Asian Countries

How sympathetic or unsympathetic would you say you feel towards those who come to your country for the following reasons?	Sympathetic (%)	Unsympathetic (%)	Neither/don't know (%)	Total (%)
<b>Indonesia</b>				
Lack of political or religious freedom in their country	62	13	25	100
Fleeing persecution in their country	58	14	28	100
Wanting a better life	64	8	28	100
<b>Malaysia</b>				
Lack of political or religious freedom in their country	70	9	21	100
Fleeing persecution in their country	63	13	24	100
Wanting a better life	60	8	32	100
<b>Philippines</b>				
Lack of political or religious freedom in their country	68	15	17	100
Fleeing persecution in their country	35	42	23	100
Wanting a better life	73	10	17	100
<b>Thailand</b>				
Lack of political or religious freedom in their country	59	7	34	100
Fleeing persecution in their country	23	50	27	100
Wanting a better life	61	9	30	100
<b>Vietnam</b>				
Lack of political or religious freedom in their country	79	5	16	100
Fleeing persecution in their country	73	6	21	100
Wanting a better life	78	5	17	100

Source: Worldwide Independent Network of Market Research and Gallup International, "End of Year Survey 2014—Regional & Country Results," accessed July 7, 2016, [www.wingia.com/en/services/end\\_of\\_year\\_survey\\_2014/regional\\_results/8/46/](http://www.wingia.com/en/services/end_of_year_survey_2014/regional_results/8/46/).



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## About the Author



**Marie McAuliffe** is on leave from the Australian Department of Immigration and Border Protection and pursuing a doctorate at the Australian National University (ANU). She is a Visiting Fellow at the Global Migration Centre at the Graduate Institute of International and Development Studies in Geneva, and a Visiting Scholar at the Population Institute at Hacettepe University in Ankara. Ms. McAuliffe has led migration research and policy teams in government and has consulted for the International Organization for Migration (IOM) and the International Labor Organization (ILO), as well as in the private sector, including while living in Korea, Russia, and Turkey.

Between 2012–14, she directed the Australian irregular migration research program.

Ms. McAuliffe has published in peer-reviewed migration journals and policy organizations, focusing on migrant smuggling, asylum seekers and refugees, and protection in Southeast Asia. She is guest editor of a special issue on irregularity, protection, and statelessness in Southeast Asia for the *Journal of Immigrant and Refugee Studies*, and is co-editor of a book on irregular migration with Khalid Koser (ANU Press, forthcoming).



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