

Summary Note: Virtual Launch of the Research Report on

## *Refugee protection, human smuggling, and trafficking in Bangladesh and Southeast Asia*

17 January 2023 | 14:00-15:30 Bangkok time (GMT+7)

### Background

The Protecting Rohingya Refugees in Asia (PRRiA) project is a two-year, ECHO-funded initiative launched in July 2021 to address protection risks to and needs of Rohingya refugees in Southeast Asia. A joint project of the Danish Refugee Council (DRC), the Asia Displacement Solutions Platform (ADSP), the Geutanyoë Foundation, the Mixed Migration Centre (MMC), HOST International and the Jesuit Refugee Service (JRS) Indonesia, PRRiA combines research, humanitarian and protection programming, and evidence-based advocacy to promote regional protection responses for Rohingya refugees. The project aims to improve coordination and strengthen concerted advocacy interventions with regional and national stakeholders, supporting the implementation of existing global, regional and national policy and legal frameworks.

To support project objectives, the study, [Refugee protection, human smuggling, and trafficking in Bangladesh and Southeast Asia](#), was undertaken to explore gaps in refugee protection law and policy, and how they intersect with human trafficking and smuggling of Rohingya refugees in the region. The report includes key conclusions and targeted recommendations for donors, host governments, regional bodies, civil society actors, and international organisations. The conclusions and recommendations are included in an annex to this note.

The study is the first of three research papers to be produced under the PRRiA project.

### Summary of Launch Event Discussion

**Moderator:** *Themba Lewis, Head, Asia and the Pacific, Mixed Migration Centre (MMC)*

**Welcome Remarks:** *Priya Mariam Jacob, Regional Head of Programme, DRC*

- Rohingya refugees in Asia are facing protection challenges in transit and host countries. The need to address the protection risks of Rohingya refugees remains critical in the face of the diminishing likelihood of safe, voluntary, and dignified return of Rohingya (and other displaced groups from Myanmar).
- *Refugee protection, human smuggling, and trafficking in Bangladesh and Southeast Asia* is very timely and relevant, especially in the context of the sharp increase in irregular boat movements in December 2022.

**Keynote Speaker:** *Tan Sri Dato' Seri Syed Hamid Albar, Former Minister of Foreign Affairs of Malaysia*

- The Rohingya population is facing continued persecution in Myanmar and living under difficult conditions in other countries in the region. There is an urgent need for all stakeholders to come forward and take part in the ongoing humanitarian action on this issue.

- The solution to Rohingya displacement lies in enhanced regional efforts to address the issue, with states playing critical roles in revitalising regional responses through leveraging existing frameworks and developing regional mechanism as well as ‘minilateral’ approaches.
- Regional action must be a priority. There are critical ways in which even modest cooperation can help. Increased coordination among Indonesia, Malaysia and Thailand in response to boat movements, for example, can save lives by creating predictable rescue and disembarkation of distressed boats.
- Regional governments must open up to working with UN agencies, civil society groups, refugee leaders, private sector actors, and donors to develop medium and longer-term plans that would allow resources to be mobilized, equitably distribute responsibility, create standards or obligations for which stakeholders are accountable, and identify solutions.

**Presentation:** *Lilianne Fan, International Director and Co-Founder of Geutanyoë Foundation*

- Provided an overview of the research report *Refugee protection, human smuggling, and trafficking in Bangladesh and Southeast Asia*, articulating the research methodology, core findings, and policy implications.
- Presented the recommendations and analysed why such recommendations were pertinent to improving the current protection environment.

**Panel Discussion:**

**Panelist 1:** *Dr. Sriprapha Petchamesree, Human Rights Expert*

- Explained that there are gaps in refugee protection and legal frameworks in Indonesia, Malaysia, Thailand, and Bangladesh. At present, the three ASEAN focus countries of the research—Indonesia, Malaysia, and Thailand—do not have adequate domestic legal frameworks to protect refugees.
- In addition, most states have been skirting their international obligations, despite having signed and ratified several human rights instruments. Primarily, immigration laws have been applied to address refugee populations, and therefore refugees are broadly treated as ‘illegal’ in the three countries. While there have been positive developments in recent years, such as Indonesia’s PR 125/2016 and Thailand’s National Screening Mechanism (NSM), there remain notable gaps in refugee protection.
- To improve refugee protection in the region, the first step is to formally recognise refugees and to move away from other constructed terminologies, such as the term ‘protected persons’ used in Thailand’s NSM.
- There also needs to be a paradigm shift from national security/humanitarian approaches to human rights approaches. At the ASEAN level, there is a lack of discussion on responsibility sharing among the member states. The emphasis on state sovereignty goes against a human rights-based approach and refugee protection.
- Greater accountability to refugee protection and human rights is needed in the region, as well as enhanced regional cooperation on forced displacement issues and shared regional governance guided by international laws.

**Panelist 2:** *Mohammadul Hassan, Programme Coordinator, Geutanyoë Foundation Malaysia*

- To provide attendees with a first-hand perspective of the dangers faced by Rohingya travelling irregularly within the region, Mohammadul described his journey from Bangladesh to Malaysia by boat in 2015 and highlighted the reasons that often compel Rohingya populations to embark on such perilous journeys. He noted that conditions are so dire in refugee camps in Bangladesh; the only option many see is to flee to Malaysia.
- To achieve any long-term solutions for Rohingya in Myanmar, there is an urgent need for ending the continued discrimination and persecution of Rohingya.

**Panelist 3:** *Edmund Bon Tai Soon, Former Representative of Malaysia to the ASEAN Intergovernmental Commission on Human Rights (AICHR)*

- Malaysia's political positioning is shifting with regards to Rohingya issues regionally and in Malaysia. After the coup in Myanmar, attention has pivoted towards encouraging Myanmar to implement the Five-Point Consensus, instead of addressing issues related to protection and rights of refugees in the country or region. The issue of refugees has taken a back seat in recent administrations, and this has been exacerbated by less public pressure, which enables the government to mishandle the issue.
- In Malaysia, public opinion related to refugees is often negative, and public prejudice is presently quite high. Against this background, the government has no political will for greater protection of refugees.
- Advocacy efforts need to restart with the new government, focusing on putting refugee issues back on the agenda. A recent consultation with the new Minister of Law and Institutional Reform and CSOs involved discussion of addressing refugee-related issues, including rights to work, healthcare, formal education, and legal documentation. ASEAN could be used as a platform as well to revitalize discussion on refugee issues.
- The ASEAN Convention against Trafficking in Person (ACTIP) is lacking in terms of protection it has created for human smuggling and trafficking survivors. There is a lack of understanding on how the three focus countries (Malaysia, Indonesia, and Thailand) should deal with refugees, as well as the recent uptick in irregular boat movements.
- Despite boat pushbacks, no action can be taken to penalize these actions under the ACTIP framework. While ACTIP looks good on paper, in practice, it fails to provide a clear understanding for even the three focus countries about dealing with refugees and boats.

**Panelist 4:** *Yuyun Wahyuningrum, Representative of Indonesia to the ASEAN Intergovernmental Commission on Human Rights (AICHR)*

- In Indonesia, there is a need to shift the approach in receiving and providing services to refugees, as Indonesia is no longer a transit country but a destination for refugees.
- Although PR 125/2016 is limited in terms of refugee protection, it could be used as an advocacy tool to lobby with the Ministry of Finance to introduce new financial support for humanitarian/refugee responses.
- While refugee protection is not one of the agenda items for Indonesia's chairmanship of ASEAN, other agenda items—including migration and 'ASEAN matter'—could be used as entry



points for advocacy. For instance, at AICHR, the introduction of mixed migration is a way of creating dialogue on refugee issues.

- Indonesia should take the lead in ratifying the 1951 Convention Relating to the Status of Refugees and its Protocol, joining its counterparts Cambodia and the Philippines. Various initiatives by the Philippines, such as opening education pathways for Rohingya and other plans in line with the Global Compact on Refugees, set good examples for countries in the region.

At the conclusion of panelist interventions, attendees were invited to ask questions and engage in discussion. Key points from the open floor discussion and Q&A session included:

- There is a need for ASEAN to change its stance to address the gaps between security and humanitarian issues. There must be willingness at the ASEAN level to address Rohingya protection, as it is not a priority at the regional level discussion. It is important for Indonesia, Malaysia, Thailand, and Bangladesh to coordinate in solving the challenges.
- Institution-driven efforts are required within ASEAN to push forward any agenda, the same goes for the refugee issue. For example, by creating a specialised body on refugee issues, which does not exist now, the agenda can be taken forward.
- Setting up a specialised body in ASEAN on refugees would also require a regional framework and agreement first, similar to the one for disaster management (AADMER) and subsequent establishment of the AHA Centre.
- It is important for the region to bring into discussion all issues regarding refugee rights and protection and stop focusing only on trafficking and smuggling of refugees.
- There needs to be willingness within ASEAN to address refugee protection in the region. At present, refugee protection does not get enough importance in ASEAN discussion.
- There needs to be regional effort to push ASEAN out of its 'comfort zone' with regards to refugee protection. Without redefining ASEAN's working principle, it would be difficult for ASEAN to deal with refugee displacement, which is 'sensitive' in the region.
- Indonesia is ASEAN chair in 2023 and Co-Chair of the Bali Process. It is crucial for Indonesia to take the lead to at least include migration in ASEAN's formal agenda.
- The concept of minilateralism is not a new approach, but rather one which needs to be rejuvenated and supported from civil society. It is also important to think beyond state-level minilateralism, but also to reflect on previous successes such as the Comprehensive Plan of Action (CPA). There could be a push towards similar agenda as CPA, or to further support the International Criminal Court and International Court of Justice.

## ANNEX

Conclusions and recommendations from the study, [\*Refugee protection, human smuggling, and trafficking in Bangladesh and Southeast Asia\*](#):

### Conclusions

**Conclusion 1:** Smuggling networks enable Rohingya to leave deteriorating living conditions in Myanmar and Bangladesh and seek access to social services and economic opportunities in host countries.

**Conclusion 2:** An important catalyst in the adoption and architecture of national protection policies are the ASEAN Declaration on the Rights of Children in the Context of Migration, the ASEAN Convention Against Trafficking in Persons, and respective Plans of Action.

**Conclusion 3:** National governments have the responsibility to address protection needs by establishing clarity between smuggling and trafficking including through stronger policies with consistent messaging, implementation, and enforcement.

**Conclusion 4:** Civil society actors and stakeholders are limited in advocating for change in national governments due to power imbalances in partnerships, barriers to resources, and lack of political will.

**Conclusion 5:** The lack of national rights that recognise and safeguard refugee status is a fundamental barrier to protection in Thailand and Malaysia. Across the region, national governments must continue to address restrictions on work for refugees and access to basic services.

### Recommendations

#### **For Regional Bodies:**

- Prioritise the development of a regional ASEAN refugee protection framework to supersede national protection responses grounded in anti-human trafficking laws, shifting humanitarian policies, migration management, and recognition of international obligations.
- Align anti-human trafficking and refugee response laws, policy frameworks, and approaches to ensure survivors of trafficking, including Rohingya, have effective access to national and international refugee protection mechanisms and available durable solutions.
- Ensure asylum seekers and recognised refugees have effective access to national human trafficking screening processes, protection, and rehabilitative and other support services.

#### **For Host Governments:**

- Explore unilateral approaches to refugee protection that promote coordination, resource sharing, protection outcomes, and accountability.
- Engage in a whole-of-society approach comprising civil society organisations, refugee and host communities, donors, and UN agencies, to develop national policies that recognises the legal status of refugees and enables them to access social services and economic opportunities.

#### **For International Organisations:**

- Advocate at the national level with government and private sector actors to promote and recognise legal status and work rights for refugees.



- Support national governments to build capacity at the subnational level on trafficking screening, victim identification, and protection services.
- Invest in partnerships with civil society organisations and ensure there is meaningful participation, balance in decision making, and equitable sharing of resources.

#### For Donors:

- Support the design and implementation of multi-year, multi-stakeholder regional responses that include commitments to international protection standards, effective accountability mechanisms, equitable distribution or responsibility, and predictable resources for refugee communities and host governments.
- Increase support to origin country governments (i.e., Bangladesh) and organisations to strengthen refugee management services and mechanisms.
- Encourage the Governments of Thailand, Indonesia, and Malaysia to integrate protections into anti-trafficking policies, codify legal status and work rights for refugees, and improve resourcing to trafficking victim screenings and protection services.

#### For Civil Society:

- Improve communication and coordination across organisations serving survivors of human trafficking and refugee communities to strengthen mutual recognition of trafficking indicators and refugee claims, scale up referral mechanisms for services available to persons who are both survivors and refugees, harmonise or reinforce advocacy where appropriate, and share best practices.
- Leverage existing ASEAN structures, (e.g., ASEAN Intergovernmental Commission on Human Rights and thematic working groups) to integrate refugee protection into regional discussions. Specific thematic areas to focus on would include human rights, human trafficking and smuggling, transnational crime, irregular migration and labour mobility, and education.